INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

HEARINGS

BEFORE THE

TEMPORARY NATIONAL ECONOMIC COMMITTEE CONGRESS OF THE UNITED STATES

SEVENTY-SIXTH CONGRESS

SECOND SESSION

PURSUANT TO

Public Resolution No. 113
(Seventy-fifth Congress)

AUTHORIZING AND DIRECTING A SELECT COMMITTEE TO MAKE A FULL AND COMPLETE STUDY AND INVESTIGATION WITH RESPECT TO THE CONCENTRATION OF ECONOMIC POWER IN, AND FINANCIAL CONTROL OVER, PRODUCTION AND DISTRIBUTION OF GOODS AND SERVICES

PART 20

IRON AND STEEL INDUSTRY

PRICE POLICIES ON SPECIFIC PRODUCTS
PACIFIC COAST PROBLEMS
STEEL EXPORT ASSOCIATION

NOVEMBER 8, 13, 14, AND 15, 1939

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(Created pursuant to Public Res. 113, 75th Cong.)

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[1] On file with the Committee.

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INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

WEDNESDAY, NOVEMBER 8, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:15 a. m., pursuant to adjournment on Tuesday, November 7, 1939, in the Caucus Room, Senate Office Building, Senator William H. King presiding.

Present: Senator King (acting chairman); Representatives Reece and Williams; Messrs. O'Connell, Avildsen, Henderson, and Brackett.

Present also: Willis Ballinger, Frank A. Fetter and Hugh White, representing the Federal Trade Commission; John V. W. Reynders, representing the Department of Commerce; A. H. Feller, Special Assistant to the Attorney General; John W. Porter, Irving B. Glickfeld, Hyman B. Ritchin, Monroe Karasik and Ward S. Bowman, Department of Justice.

Acting Chairman KING. Are you ready to proceed, Mr. Feller?

Mr. FELLER. Yes, sir.

Acting Chairman KING. The committee will be in order.

PRICE RELATIONSHIP BETWEEN FINISHED AND SEMI-FINISHED STEEL

Mr. FELLER. Mr. Fairless, earlier in your testimony we had touched somewhat briefly on the question of the price policy on the sale of semifinished steel.[1] I should like to revert to that just for a few minutes. As I understand it, and I hope you will correct me on this, a rather important question of price policy is presented by the price relationship between semi-manufactured steel and the finished steel.

Now, the semifinished steel, as I believe we discussed earlier, is sold either to nonintegrated steel concerns which manufacture finished products and sell them in competition with you or other steel producers, or to certain customers of yours who may, on occasion, manufacture a finished product for their own use and not for sale.

Now, could you tell us the considerations pro and con in connection with the problem as to whether the price of semi-finished steel should be increased or decreased in relation to the price of the finished steel?

TESTIMONY OF BENJAMIN F. FAIRLESS, PRESIDENT, UNITED STATES STEEL CORPORATION, NEW YORK, N. Y.—Resumed

Mr. FAIRLESS. In the event of a price change?

Mr. FELLER. Yes.

Mr. FAIRLESS. Mr. Chairman, in my previous testimony I referred to the merchandising policy of our subsidiary companies who are

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[1] Mr. Fairless's previous testimony appears in Hearings, Part 19.

manufacturers of semifinished steel, and I am wondering at this time, before I completely answer this question, if it would be helpful if we displayed pictures of semifinished steel. Would that be helpful to the committee?

Mr. FELLER. Well, the committee has already seen the movie, which showed a good many of these products.

Mr. FAIRLESS. I am only offering it in the event the committee is interested. They are available. They were prepared for the committee to show what the product looks like, when I talk about a slab or a sheet bar or a rod.

Mr. FELLER. It is up to the committee.

Acting Chairman KING. I would not want to divert Mr. Feller from his line of procedure. If it would not be too much of a detour, it would be all right.

Mr. FELLER. I don't want to take too much time on this. I understand these pictures are to show the committee what a slab is or a bloom or a billet.

Mr. FAIRLESS. The motion picture didn't particularly point out that this is a semi-finished product, I believe.

Acting Chairman KING. I think perhaps we had better omit the introduction of that.

Mr. FAIRLESS. They are available if the committee is interested. Adding just one more point to Mr. Feller's presentation of the semifinished steel picture, we also have sold at times, and probably will again sell, semifinished steel to integrated, so-called integrated, steel companies, which is another outlet for this product.

Our pricing policy in respect to semifinished steel is as follows: We attempt at all times to sell users of semifinished steel those products at such prices that they can convert that steel into finished products and compete in the finished steel markets. As a result of that policy, and that has been particularly true during the last 9 years, the price of semifinished steel had got to a point so low that many times we didn't get back a new dollar for an old one. Nevertheless, we attempted to, and did, keep our semifinished customers in business, and that is our policy. You appreciate, of course, that while we announce the prices of our finished products and we announce the prices of our semifinished steel, we always attempt to keep them in proper relation, and by that I mean so that there will be sufficient spread in the cost of conversion as between the semifinished and the finished product to permit a reasonable profit. However, competitive conditions within the industry sometimes, and many times, are so great that our published prices in respect to the finished products cannot be realized, either by us or by the customers we serve in respect to semifinished steel. We are in constant contact with those customers; they come to us with their problems, and it is our policy to make adjustments in respect to the semifinished price to them, even although that does at times result in price dollars per ton below our officially announced prices of semifinished steel; still we pursue that policy and try to keep our customers in business.

I might cite that it is a matter of record and this committee could refer to the earnings of so-called nonintegrated companies versus the integrated companies. I am sure that the record will show that the results earning-wise of nonintegrated companies during the last 9 years have been brighter than the integrated companies.

Acting Chairman KING. Have you discovered that there is competition among your customers to whom you furnish or sell semifinished steel?

Mr. FAIRLESS. Oh, my yes. Oh, yes; of course.

Acting Chairman KING. Whether those customers are your subsidiaries or whether they are independents, so to speak.

Mr. FAIRLESS. Oh, yes.

Acting Chairman KING. In the trade generally.

Mr. FAIRLESS. Oh, yes. We must keep our position and be competitive with every product we make, and we cannot be influenced in our competitive relationship in respect to finished products by any relationship that exists with our semifinished customers.

Acting Chairman KING. Is there competition between some of your customers who obtain semifinished steel from your company and persons or corporations or individuals who obtain semifinished steel from other steel companies?

Mr. FAIRLESS. Oh, yes; definitely.

Acting Chairman KING. So there is competition among your own customers who deal perhaps exclusively with you, as well as your customers and the customers of other vendors of semifinished steel.

Mr. FAIRLESS. That is right.

Representative WILLIAMS. Is it because of that competition that the income of the integrated companies, in your opinion, is less than the nonintegrated companies?

Mr. FAIRLESS. No; the major reason for the nonintegrated companies making a better showing earning-wise is because of their small investment as compared with the integrated companies. In other words, they begin with the slab or sheet bar or rod. That is their raw material. Their only investment, then, is in the finishing facilities: sheet mill, strip mill, tin mills, or wire mills. Our investment, and by far the greater part of our investment, lies back of the semifinished products. In other words, we have our ore reserves, our transportation facilities, our sources of raw materials, coal, coke, blast furnaces, open hearths, blooming mills, slabbing mills, which represent by far the greatest part of our investment in the steel business, and we have all that before we can make semifinished steel.

Representative WILLIAMS. And that is where there is a smaller income, in these original primary processes?

Mr. FAIRLESS. In times of stress such as we have had in the last 9 years.

Representative WILLIAMS. What is your definition of an integrated company? We have had some confusion here as to what the meaning of the term is.

Mr. FAIRLESS. Integration is a relative term and for any company to be completely integrated would mean to me self-contained, and I don't know of any company that is in that position. We are not completely integrated, we are large purchasers of certain raw materials such as manganese ore and all of the alloys that we use in the manufacture of steel. We manufacture none except ferromanganese and there we are purchasers of manganese ore for refractories. We are very small manufacturers of refractories, to the extent normally of 10 or possible 15 percent of our requirements, so we are far from being completely integrated.

Mr. FELLER. As the term is used in the industry you are integrated. We have referred from time to time to an integrated producer. You are integrated as that term is used.

Mr. FAIRLESS. In respect to iron ore and fuel, if that is what we are discussing as integration, we are.

Mr. FELLER. This is just to clear up the matter.

As the term is used in the industry a nonintegrated company is a company which doesn't produce iron ore or pig iron or steel, that is raw steel. It buys its steel from somebody else and makes a product.

Mr. FAIRLESS. That is the general term as applied to integration.

Representative WILLIAMS. I think I understand in general terms what an integrated company is, but I was just wondering how we were using the term here. You say it is a relative term. What percentage of your raw material do you purchase, in money, not in volume.

Mr. FAIRLESS. I haven't that figure, it would be relatively small as compared to the whole if we include iron ore, coal, and limestone.

Representative WILLIAMS. What about your transportation facilities of your raw materials? Do you own them?

Mr. FAIRLESS. Yes, some. The United States Steel Corporation has an investment in various railroads. They are common carriers, however. They do not deal exclusively with the business of the subsidiary companies of the United States Steel Corporation.

Representative WILLIAMS. You have your fleets, too, have you?

Mr. FAIRLESS. On the Great Lakes for transportation of iron ore; yes, sir.

Mr. FELLER. You also have an ocean-going fleet?

Mr. FAIRLESS. Yes.

Mr. FELLER. Operating now?

Mr. FAIRLESS. Yes; it is a common carrier.

Mr. FELLER. That is the Isthmian Steamship Company, the Isthmian Line, is it not?

Mr. FAIRLESS. That is right. Its business is possibly not more than 30 percent United States Steel Corporation business. It is a common carrier. It does a general shipping business.

Mr. FELLER. Mr. Fairless, you stated the problem with respect to the pricing of semifinished material in a very clear and concise manner. It is correct to say that the Corporation has been advised from time to time that the price of semifinished material should be increased so that the return on the semifinished material should approximate more nearly the return on the finished?

Mr. FAIRLESS. Yes; naturally.

Mr. FELLER. And the Corporation to date has refused to do that?

Mr. FAIRLESS. That is right.

Mr. FELLER. Or has not done that.

Mr. FAIRLESS. That is right.

Mr. FELLER. Mr. Stapleton is now called as a witness. May I ask that he be sworn?

Acting Chairman KING. May I ask first, further elaborating the answer you gave, what is the reason that is assigned by the company for the position taken as your answer indicated?

Mr. FAIRLESS. Why have we taken that position?

Acting Chairman KING. Yes.

Mr. FAIRLESS. This has always been the policy of the United States Steel Corporation. If you take many of the integrated companies that exist today, they had their beginnings as nonintegrated companies, and many of them bought most of their semifinished steel from the United States Steel Corporation. The Carnegie Steel Co., which is now one of the important units of the Carnegie-Illinois Steel Corporation, was a semifinished producer at one time to the extent of about 40 percent of its capacity, and sold 40 percent of its capacity in the form of semifinished material to nonintegrated companies. Many of those nonintegrated companies later put in steel-making facilities and they became integrated companies, and still there are some remaining nonintegrated companies and our policy in respect to those that remain hasn't changed. It is still in effect.

Mr. FELLER. May I ask that Mr. Stapleton be sworn?

Acting Chairman KING. Do you solemnly swear that the testimony you shall give in this hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. STAPLETON. I do.

TESTIMONY OF JOHN H. STAPLETON, ASSISTANT TO THE VICE PRESIDENT IN CHARGE OF SALES, CARNEGIE-ILLINOIS STEEL CORPORATION, PITTSBURGH, PA.

Mr. FELLER. Please give your name to the reporter.

Mr. STAPLETON. My name is John H. Stapleton. I am assistant to the vice president in charge of sales, Carnegie-Illinois Steel Corporation, Pittsburgh, Pa. My functions are primarily those of personnel and organization.

Mr. FELLER. Mr. Stapleton, I show you a memorandum dated February 25, 1938, on the letterhead of the Carnegie-Illinois Steel Corporation. It was taken from the files of that corporation, and I ask you if you will look at that.

Mr. STAPLETON. I have.

Mr. FELLER. I offer this.

Acting Chairman KING. It is offered for the record, do you mean?

Mr. FELLER. Yes, Mr. Chairman.

Acting Chairman KING. It may be received.

(The communication referred to was marked "Exhibit No. 1398" and is included in the appendix on p. 10985.)

Mr. FELLER. Mr. Stapleton, in this memorandum there occurs the following paragraph:

> This policy is too specific. We obtain greater sales representation through furnishing semi-finished material to nonintegrated units who have selling organizations for the distribution of the finished product. While it is true they are competitive with us, they nevertheless to a large degree are under our control, and were we to discard these accounts, the tonnage would be furnished by other steel producing competitors and our competition on the finished product would simply be increased without our obtaining any portion of the profit by selling to nonintegrated units. We believe we obtain 60 per cent or more of the possible profit, and we are of the opinion that a great deal of this tonnage represents items which otherwise would be lost to us.

I take it, Mr. Stapleton, that this is a comment by you on a suggestion that the price of semifinished materials be increased, and I take it that you were opposed to that policy. That is correct, is it not?

Mr. STAPLETON. I would like to state there that I know practically nothing about semifinished steel. My duties deal with personnel matters. This memorandum was written 4 days after I was employed is my new capacity. As a matter of fact, I did not have a title at that time, nor office space nor anything else, and I was asked to give some off-hand comments on certain points, which I did, and they are just purely personal opinions.

Mr. FELLER. May I ask you what you meant by the statement—

> While it is true they are competitive with us, they nevertheless to a large degree are under our control.

Mr. STAPLETON. I meant by that that through them we reached the finished markets. We had entree to those markets, and thereby reached markets which we otherwise would not have reached.

Mr. FELLER. I don't quite understand how that sort of relationship could be explained by the use of the word "control"—"under our control."

Mr. STAPLETON. I don't think it is a very good word, except that this was an inter-office memo and the man that received it knew what I had reference to.

Mr. FELLER. What do you think he would have known? How would he have understood it?

Mr. STAPLETON. He would have understood that I had reference to the fact that we were gaining entree to a market which we would otherwise not have been in. These people were selling customers we probably did not serve, and thereby we controlled more business by entering those markets.

Mr. FELLER. Did you mean by the word "control" then that the final finished product would be under your control?

Mr. STAPLETON. I meant by the word "control" that we secured or obtained the business.

Mr. FELLER. You secured the business because you sold the semifinished material to the nonintegrated producer?

Mr. STAPLETON. That's right. We indirectly obtained steel business.

Mr. O'CONNELL. Mr. Stapleton, as I understood the sentence the word "control" was used with reference to your clients, as persons to whom you sold semifinished goods with whom you were in competition. Is that correct?

Mr. STAPLETON. No, that is not. It had reference to the ultimate markets.

Mr. O'CONNELL. Would you read that sentence again, please?

Mr. FELLER. The sentence reads as follows:

> While it is true they are competitive with us, they nevertheless to a large degree are under our control, and were we to discard these accounts, the tonnage would be furnished by other steel producing competitors, and our competition on the finished product would simply be increased without our obtaining any portion of the profit by selling to nonintegrated units.

Mr. O'CONNELL. When you speak of "they are somewhat under our control," as I understand that sentence, you were referring to the persons to whom you were selling semifinished goods.

Mr. STAPLETON. It is ambiguous, but it refers to the finished product.

Mr. O'Connell. It certainly doesn't sound ambiguous to me. Do you mean by "they" that you do not mean the persons with whom you are competitive?

Mr. Stapleton. That's right.

Acting Chairman King. Were they under your control?

Mr. Stapleton. I don't see how they could be; no.

Acting Chairman King. Did you intend to convey the meaning that they were under your control?

Mr. Stapleton. No; I did not.

Mr. O'Connell. It was an unfortunate choice of grammar?

Mr. Stapleton. That's it.

Mr. Feller. May I ask you this: We previously had some testimony with reference to the spread between the semifinished material and the finished material. Is that spread under your control?

Mr. Stapleton. I don't know that.

Mr. Feller. How about that, Mr. Fairless.?

Mr. Fairless. The spread itself is under my control.

Mr. Feller. I mean the Corporation's.

Mr. Fairless. Of course the selling price at which we sell any of our products is under our control. But answering your question directly now, you asked me if we can control the spread that exists between semifinished and the finished product. Of course not. How could we?

Mr. Feller. Well, if you raise the price of the semifinished and do not raise the price of the finished, isn't the result in the market that the spread between the two is narrowed?

Mr. Fairless. Shall I repeat or refer to the record my statement of our policy in respect to the sale of semifinished steel?

Mr. Feller. This isn't a question of what your policy actually is. At that point I am not raising any question as to whether or not you have in fact narrowed the spread as a matter of policy. I am merely asking you whether as a matter of fact that spread isn't under your control, that if the Corporation desired, it could narrow it.

Mr. Fairless. In our announced prices?

Mr. Feller. Yes.

Mr. Fairless. In announcing the price of semifinished steel on the one hand and the resultant finished product on the other, if we so desire that we could narrow the spread in respect to those announcements?

Mr. Feller. Yes.

Mr. Fairless. Certainly, of course, but that is an entirely different question than I referred to in respect to our policies. Being able to do it and doing it are two different things, aren't they?

Mr. Feller. Oh, yes.

Mr. Avildsen. May I suggest for the benefit of some of the committee members who were not present when Mr. Fairless stated his policies with regard to semifinished steel, that he repeat that?

Mr. Feller. I think the reporter can read that back.

Mr. Avildsen. I think the notes have gone downstairs.

Mr. Fairless. I can make it very short. Our policy, gentlemen, in respect to the sale of semifinished steel is as follows: We are the largest sellers of semifinished steel. Semifinished steel is sold to so-

called nonintegrated companies on one hand. It is also sold in some instances to integrated companies, companies whose steel making facilities are less than their finishing facilities, and on the other hand, a third outlet is to customers who convert some form of semifinished steel into the finished product in which they are interested.

The policy of the United States Steel Corporation and its subsidiaries has always been, and still is, to keep our customers competitive in respect to the price that we charge them for semifinished steel in relationship to the market conditions that exist in the finished products that they make.

Now we begin for a quarter, using it for an example, we publish the price for semifinished steel, and also a price, published by some subsidiary, for the resultant finished product. You will always find that the so-called spread between the prices of these products is sufficient for a profit, a satisfactory profit, based on satisfactory business conditions. We can't be elastic to the point of providing such a spread that if operations are at 20 percent of capacity, for example, in respect to that particular product, that we can guarantee the customer a profit. We can't do that. We don't have a profit ourselves. But the spread is always sufficient for a satisfactory profit with satisfactory operating conditions.

Now we have no control over that finished market, so when we get into a condition market-wise where the announced price in respect to the finished product is not the realized price, then we sit down with our semifinished customer and we make some adjustment in the price of his semifinished steel and I refer you to our semifinished customers for verification of that statement.

Mr. Feller. Mr. Fairless, I understand from your statement that the possibility exists that the Corporation might so arrange its pricing policy that the profit margin of the nonintegrated producer could be diminished. I also understand you to say that the Corporation has not done that, and as I have said before, we are not going into the question at all as to whether or not you have done that. The sole problem that we are directing our attention to here is the existence of this economic problem on the one hand, a large producer which sells a semifinished product to a smaller producer who in the end is the competitor of the large producer, and I think perhaps you will agree that there we have an economic problem which the committee should have before it.

Now whether or not the power which you have has been exercised in any improper way, that we do not suggest nor even imply, but is it not true that the power does exist and that it is a problem of some consequence for the nonintegrated producer?

Mr. Fairless. I do not agree it is a problem of any consequence. I admit, of course, that theoretically it could happen, just what you have stated, but keep in mind that we don't control the semifinished steel market.

Mr. Feller. Will you explain just what you mean by that?

Mr. Fairless. I am going to. Semi-finished steel is a steel product and it is just as competitive, and at some periods in our business cycle it becomes possibly more highly competitive, if possible, than some of our finished lines, for this reason, that whenever this steel

industry operates, say, at anything less than 60 percent of capacity—and the records show that this industry operates many times at less than 60 percent of capacity, then every producer of steel in this industry is actually or potentially a seller of semi-finished steel. So obviously we couldn't just name some price, as you presented it, Mr. Feller. Theoretically we could name a price, but the customer would simply go to some other steel company and buy semi-finished steel, because it is a highly competitive product.

Mr. FELLER. But in times of high demand, such as the present, the problem does become something more than theoretical.

Mr. FAIRLESS. No, it does not, because the policy of the United States Steel Corporation in respect to merchandising products doesn't change with the rate of operation.

Mr. FELLER. At such a time, however, if you were to increase the price of semi-finished materials at a time like today, when the operations were above 90 percent, you would have an effect which is different from the effect which would occur in times of very low demand when there was an intense scramble for business.

Mr. FAIRLESS. You are familiar with our price announcements for the present quarter?

Mr. FELLER. Oh, yes, sir.

Mr. FAIRLESS. Has that occurred?

Mr. FELLER. No, sir. As I have stated before, we have not in any way implied that you have exercised this power.

Acting Chairman KING. Mr. Feller, doesn't every manufacturer, whether it is steel—I am asking for information and to get your point of view—or woolen goods, or a producer of oil, doesn't his attitude or don't his prices change by reason of demands or lack of demands, increased cost, change in the economic situation?

Mr. FELLER. To answer your question, may I say, Senator, that the closest parallel here that I can see is in the case of the oil industry, where a large refiner of oil may sell oil to retailers who are independent and who have no refining facility, and at the same time distribute his own oil through competing outlets. That is the economic problem which we are placing before the committee. I don't think it is necessary to go into it any further except to indicate that such a problem exists.

Mr. FAIRLESS. I might, if I may, Mr. Chairman, just give you an example of how impractical it would be for us to exercise this power, if it exists—I do not admit that it exists—by this example: We are selling X Company 5,000 tons per month of semifinished steel and he, in turn, produces some finished product which is in turn in competition with us.

Assume that we make it impossible for this customer to exist by doing just what Mr. Feller says theoretically we can do. What happens is, we lose 5,000-tons-a-month business. It may go to someone else. On the other hand, let's take an impossible example that this man is driven out of business, and in my 25 years of experience I have yet to know of a so-called nonintegrated unit that has been driven out of business for this reason, but that doesn't diminish the requirements of that particular product Nation-wise to the extent of 5,000 tons every month; it just means that that 5,000 tons per month goes to

the steel industry as a whole. Now we may get a part of it, but certainly we wouldn't get the 5,000 tons. So it is absolutely against our own best interests to exercise any power that we might theoretically have in respect to this problem. I think it is entirely a practical businessman's decision.

Mr. REYNDERS. Isn't it also a fact that the facilities of these nonintegrated units differ to this extent, that they fill an order book which it is possible to fill economically on their type of equipment?

Mr. FAIRLESS. Many times.

Mr. REYNDERS. Whereas your mills are tonnage mills and you are not in good position to fill an order book of a thousand tons of each size.

Mr. FAIRLESS. That is true.

Mr. REYNDERS. To that extent, Mr. Feller, there would be a difference in the competition in the ultimate product.

Mr. FAIRLESS. Many times these nonintegrated people deal entirely in specialties, entirely in specialties.

Mr. O'CONNELL. Mr. Fairless, while we are being so highly theoretical, and taking the example you gave about a purchaser of your semifinished goods in an amount of say 5,000 tons and the undesirability from your standpoint of narrowing the spread to such an extent that it would put him out of business, I can see that that might very well be not to your advantage, but theoretically also might it not be to your advantage to so narrow the spread as to give you a competitive advantage and put your supplier, let us say, on starvation wages? I take it the narrower the spread the better it is for you people in competition with him.

Mr. FAIRLESS. Theoretically that is true, but in the early part of my testimony I referred you to the earnings over the past 9 years of these nonintegrated units as compared with the integrated units. The records speak for themselves. And their showing earning-wise has been definitely better than the United States Steel Corporation.

Mr. O'CONNELL. I was merely attempting to follow the path that Mr. Feller tried to follow in distinguishing what the Steel Corporation has done or what its policy has been, and as you say will be, with what power the Steel Corporation has or a company in the position of the United States Steel Corporation has, the economic power that it has and the extent to which it might be possible and desirable from its own standpoint to use it.

Mr. FAIRLESS. Potentially we are all capable of committing crime.

Mr. O'CONNELL. That is true.

Mr. AVILDSEN. Isn't it a fact, too, Mr. Fairless, that if you took advantage of these nonintegrated companies in a time of great demand and shut off their source of supply of semifinished steel, there would be nothing to stop them merging and building their own semifinished steel mill, and that you would then later be forced to meet that competition, and that for a matter of pure self-preservation you would supply them with semifinished steel at a time of high demand to keep them from becoming an integrated producer?

Mr. FAIRLESS. In spite of this broad policy——

Mr. AVILDSEN (interposing). There are no patents involved.

Mr. FAIRLESS. In spite of this broad policy that I have outlined that very thing has happened.

Mr. FELLER. Mr. Chairman, I have no further questions along these general price policy considerations. I shall call, as soon as the committee has had an opportunity to ask questions, witnesses including Mr. Fairless and some others from the United States Steel Corporation, in respect to the pricing of tin plate, one of the important products of the industry.

Acting Chairman KING. Are there any other questions that you desire to ask?

Mr. REYNDERS. Mr. Fairless will be back on the stand later on?

Acting Chairman KING. If we desire to call him, he will be.

Mr. REYNDERS. I want to open up a subject but I don't want to do it now.

Acting Chairman KING. You will be available, Mr. Fairless.

Mr. FAIRLESS. I understood I was to remain.

Mr. FELLER. Yes; you are to remain.

I should like to call Mr. Fairless and Mr. Hughes who testified yesterday, also Dr. Baker and Mr. Pfeltz.

Acting Chairman KING. Come forward, gentlemen. Will those witnesses who have not been sworn, stand and raise your right hand? Dr. Baker and Mr. Pfeltz, do you and each of you solemnly swear that the testimony you will give in this hearing shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. PFELTZ. I do.

Dr. BAKER. I do.

TESTIMONY OF H. A. BAKER, PRESIDENT, AND A. R. PFELTZ, VICE PRESIDENT, AMERICAN CAN CO., NEW YORK CITY

Mr. FELLER. Please give your names to the reporter.

Mr. PFELTZ. A. R. Pfeltz, American Can Co., New York.

Dr. BAKER. H. A. Baker, American Can Co., New York.

Mr. FELLER. Dr. Baker, tell us your connection with the American Can Co.

Dr. BAKER. President of the company.

Mr. FELLER. Mr. Pfeltz?

Mr. PFELTZ. Vice president.

Mr. FELLER. Mr. Fairless, just for the information of the committee, would you give us a definition of tin plate?

Mr. FAIRLESS. It is a very high gage steel product that is coated with tin.

Mr. FELLER. Very thin steel sheet coated with tin.

Acting Chairman KING. Built up largely after the McKinley Tariff Act.

Mr. FAIRLESS. That is right.

Mr. FELLER. And tin plate is customarily sold in a standard unit called the base box, is it not?

Mr. FAIRLESS. Yes.

Mr. FELLER. Which contains 100 pounds of tin plate having 112 sheets 14 inches wide and 20 inches long; that is the standard, is it not?

Mr. FAIRLESS. That is the standard.

Mr. FELLER. From time to time, Mr. Chairman, reference will be made to the price of tin plate as so much per base box.

Acting Chairman KING. Do you want these two graphs identified or will they be identified for the record later?

Mr. FELLER. In a moment, Mr. Chairman.

The principal use of tin plate, Mr. Fairless, is what?

Mr. FAIRLESS. For the canning industry.

Mr. FELLER. The making of containers for food and for paints and various other products, oil and so on?

Mr. FAIRLESS. Yes.

Mr. Chairman, I offer for the record two charts, one entitled "Base Price of Tin Plate at Pittsburgh By Years, 1925–39," and the other entitled "Market Price of Pig Tin (New York) By Months, 1929 and 1939." Both of these charts were prepared by the Department of Justice.

Acting Chairman KING. They may be received.

(The charts referred to were marked "Exhibits Nos. 1399 and 1400," respectively, and are included in the appendix on pp. 10987 and 10988.)

TIN PLATE PRICES

Mr. FELLER. I should like to explain for a moment the chart on tin plate.

Acting Chairman KING. Base price?

Mr. FELLER. Yes, sir, base price of tin plate at Pittsburgh. The committee will notice that the price of tin plate during that period has been in the range between the $4 line and the $6 line. On the righthand side of the price line, the committee will see a dotted rectangle marked in for the year 1938. It will later appear in the testimony that late in the year 1938 a price reduction was announced which was made retroactive to the first of the year, and in order to indicate the retroactive price reduction we have put in this dotted line.

Acting Chairman KING. That would mean a reduction in the price approximately at the beginning of 1938.

Mr. FELLER. That is right, in actual effect the price at the beginning of 1938 had gone down to $5, although the price reduction itself was announced very late in the year. The committee will notice on the chart entitled "Market Price of Pig Tin (New York)" a somewhat fluctuating line which might be compared with the line on the chart representing the base price of tin plate. We will later point out just what the relationship is with specific reference to the amount of tin which goes into the tin plate. I think it might be a good point to do that right now.

Mr. Fairless, about how much tin is used in a base box of tin plate?

Mr. FAIRLESS. About a pound and a half.

Mr. FELLER. In value how does that relate to the base price of the whole box?

Mr. FAIRLESS. It fluctuates. It might mean 25, 30 percent.

Mr. FELLER. Somewhere in that neighborhood?

Mr. FAIRLESS. Yes. It has, of course, been higher percentage-wise and it has been lower. The price of pig tin, as you know, is something we have no control over.

Mr. FELLER. I understand.

Acting Chairman King. Where do you get your pig tin from? Where do the manufacturers of tin plate obtain their raw tin from?

Mr. Fairless. From the Straits, largely.

Mr. Feller. There is also some tin which is recovered domestically, from tin plate scrap, is there not?

Mr. Fairless. Yes.

Mr. O'Connell. Did I understand you to say about a pound and a half of tin would be used in a base box?

Mr. Fairless. Yes.

Mr. O'Connell. And you suggested the value of the tin would fluctuate but it might be around 25 or 30 cents?

Mr. Fairless. Twenty-five or thirty percent of the selling price of the tin plate. It fluctuates. It all depends on what the price is.

Mr. Pfeltz. More generally it is between 15 and 20.

Mr. O'Connell. At the present time the market price of pig tin is indicated to be slightly less than 50 cents. A pound and a half of tin would be in the neighborhood of 70 cents. The base box price of tin is $5.

Mr. Pfeltz. Or approximately 15 percent of the present cost.

Mr. Fairless. But there are deductions, though, from that $5 price, you see.

Mr. O'Connell. That would tend to increase the percentage.

Mr. Fairless. That is right.

Mr. Feller. I am informed that the market price of tin today is somewhere in the neighborhood of 60 cents.

Acting Chairman King. Tin or tin plate?

Mr. Feller. Tin.

Mr. Henderson. Tin is a commodity which is under control of an international cartel.

Mr. Feller. Well, it has been from time to time under the control of an international cartel. I wouldn't be able to tell you what the war has done to that cartel. I don't know.

Mr. Chairman, to understand the pricing of tin plate it is necessary to go to some extent into the contractual system or contracts on the basis of which tin plate is sold. Some of the contracts under consideration will not be within Mr. Fairless' knowledge, either because they were with other companies or because they were concluded with subsidiaries of the United States Steel Corporation before Mr. Fairless' connection with it. I should like to address my remarks to Dr. Baker at this point with reference to the contracts which he had for the purchase of tin plate.

Acting Chairman King. Will there be any evidence tending to show the companies which manufacture tin plate and have manufactured and disposed of it in the United States during the past 10 or 15 years?

Mr. Feller. I think we might deal with that right now. Dr. Baker, from which companies do you buy tin plate?

Dr. Baker. Practically all companies that manufacture tin plate in varying amounts.

Mr. Feller. Could you tell us offhand about how many such companies there are?

Dr. Baker. There would be 8 or 9, would there not, Mr. Pfeltz? I should have said 10 companies.

Mr. FELLER. From which company do you buy the largest quantity?

Dr. BAKER. The Carnegie-Illinois Steel.

Mr. FELLER. A subsidiary of the United States Steel Corporation. Could you tell us in connection with the manufacture of cans whether your company is the largest manufacturer?

Dr. BAKER. I believe it is.

Mr. FELLER. And which is the second largest manufacturer?

Dr. BAKER. The Continental Can Co.

Mr. FELLER. Do you happen to know which is the third largest?

Dr. BAKER. No; I don't know their size.

Mr. FELLER. Would the Crown Cork & Seal Co. be in the third place, Crown Can Co.?

Dr. BAKER. Either they or the National Can Co., I would say.

Mr. FELLER. Could you estimate——

Acting Chairman KING (interposing). How many companies manufacture cans?

Dr. BAKER. Food can manufacturers: The American Can Co., Continental Can Co., National Can Co., Owens-Illinois Can Co., Crown Can Co., Phillips Can Co., Heekin Can Co., Pacific Can Co., and Heinz Co. In the milk-packing field practically all of the large canners of milk make their own cans, such as Borden, Pet, Carnation, and so on. In the general line of manufacture of tin containers, I believe there are something over 50 small companies in that field.

Mr. FELLER. For the information of the committee, Dr. Baker, you mentioned some terms that the committee might want to have explained a bit. A sanitary can is a can in which food is packed, is that correct?

Dr. BAKER. A sanitary can is a round, full opened, double-seamed closure container for the packaging of food to be sterilized after closure.

Mr. FELLER. And the general line can?

Dr. BAKER. They practically include all other cans, such as coffee cans, oil cans, tobacco boxes, aspirin boxes, and so forth.

Mr. FELLER. Dr. Baker, do you happen to know about what percentage of the sanitary cans produced in the United States are produced by your company?

Dr. Baker. No; I do not.

Mr. FELLER. Is it a large percentage?

Dr. BAKER. I would say it was a pretty good percentage, yes.

Acting Chairman King. Could you give any idea—10, 20, 30, 40 percent?

Dr. BAKER. I couldn't give a very definite idea. That can easily be obtained by the Government people, who get the facts from each company, but no one company does get the facts of the others. You can easily figure that out, Mr. Feller.

Mr. FELLER. We have not been able to find any source which gave us that fact.

Dr. BAKER. We will give you our figures and you can get the others and make your calculations.

Acting Chairman KING. Is there active competition in the market for cans?

Dr. BAKER. Very active.

Mr. FELLER. Dr. Baker, could you tell us the total production of cans of your company, let us say, in 1937, by numbers?

Dr. BAKER. By numbers in cans? I couldn't give you the number of cans. I believe the published net figures of the total sales were $187,000,000, of which about one-half were packers' cans, in dollars.

Mr. FELLER. Would you know, Mr. Pfeltz, approximately how many cans your company produced in 1937?

Mr. PFELTZ. I should say, without definite knowledge, approximately 10,000,000,000, of all types.

Dr. BAKER. But that is not packers' cans. The packers' can figure would not be, I think, any more than 60 percent of that, a little less than 60 percent of that.

Mr. FELLER. Dr. Baker, you have used a new term now, packers' cans. Will you explain for the committee what the packers' can is?

Dr. BAKER. All food cans in which the product is sterilized for safekeeping, a sterilized food product in a hermetically closed container.

Representative WILLIAMS. What is the difference between that and the sanitary can which you just described?

Dr. BAKER. They are indistinguishable except that there are other types of cans that have a soldered type of closure, like milk cans, which are not sanitary cans because they don't come within the definition of being a double-seamed can. They are a soldered can.

Mr. FELLER. Then the packers' can includes both the sanitary can and the milk can?

Dr. BAKER. Yes.

Acting Chairman KING. What are the small cans in which beans and tomatoes and various agricultural and fruit products are contained?

Dr. BAKER. We call those sanitary packers' cans.

CONTRACTS FOR THE SALE OF TIN PLATE

Mr. FELLER. Turning to the question of a contract for the purchase and sale of tin plate, Dr. Baker, in 1927 your company entered into a contract for the purchase of tin plate with the American Sheet & Tin Plate Co., did it not? Do you recall?

Dr. BAKER. I believe so.

Mr. FELLER. And the American Sheet & Tin Plate Co. was at that time a subsidiary of the United States Steel Corporation?

Dr. BAKER. Yes.

Mr. FELLER. Mr. Fairless, the American Sheet & Tin Plate Co. has since become merged with the Carnegie-Illinois Steel Corporation?

Mr. FAIRLESS. In 1936 it became a part of the Carnegie-Illinois Steel Corporation.

Mr. FELLER. Dr. Baker, considering for a moment the clause in the 1927 contract between your company and the American Sheet & Tin Plate Co., that clause provided more or less as follows, that—

> Contracts or orders under this agreement shall call for seller's ruling current prices at the time the tonnage covered by such contracts or orders is placed which shall be subject to the terms hereof.

In the event of a decline in seller's selling schedule, buyer—

That is the American Can Company—

is to receive the benefit of such revision on any unspecified portion of a contract or unshipped portion of an order, and in the event of the reestablishment of prices after a decline, the unspecified portion of a contract and the unshipped portion of an order shall command prices equal to the increase, but in no case shall prices be higher than those called for at the time of entry of any such contract or order—

And the contract then went on to provide a certain scale of discounts which were in consideration of the very large quantities of products which you would purchase. Is that generally correct?

Dr. Baker. Yes.

Mr. Feller. In other words, the contract, which I understand was a requirement contract——

Dr. Baker (interposing). A partial requirement contract.

Mr. Feller. A partial requirement contract, did not specify a specific, definite price. It did not say so many dollars through the life of the conrract, but provided that the price, generally speaking, would be the seller's ruling current price at the time the product, the order for the product, was placed, with certain discounts.

Dr. Baker. Yes.

Mr. Feller. That is correct?

Dr. Baker. Yes.

Mr. Feller. Merely to develop your system of contractual relations with the subsidiaries of the United States Steel Corporation, in 1931 you entered into a further contract with the American Sheet & Tin Plate Co. Do you recall that?

Dr. Baker. I believe so.

Mr. Feller. And this contract provided in part [reading]:

When the net domestic current selling price on cokes, charcoals and ternes—

Those are various kinds of coated products, tin plate and terne—

as provided in said contract—

That is the previous contract of 1927—

is four dollars and higher, the discount of 7.5 percent of the price per base box shall be allowed buyer by seller during each year beginning January 1, 1932, of the term of this contract as extended.

That is the clause in that contract?

Dr. Baker. Yes.

Mr. Feller. Passing on to the next contract, on September 22, 1936, you entered into a contract with the Carnegie-Illinois Steel Corporation, a subsidiary of the United States Steel Corporation which had in the interim been consolidated with the American Sheet & Tin Plate Co. Is that correct?

Dr. Baker. Yes.

Mr. Feller. And that contract provided, with respect of price, as follows:

Delivered prices for each kind of material and each point of delivery as specified by buyer shall be as follows:

"For coated products, from the seller's officially announced domestic base price at Pittsburgh, Pa., or Gary, Ind., or elsewhere, in effect at the time of entry of buyer's definite order, depending upon which of said base prices shall result in the lower delivered price, there shall be deducted 7.5 percent."

Then there are further provisions made with respect to certain transportation charges and certain extras or deductions. Would you care to have the rest of that clause in the record?

Dr. BAKER. I don't think so.

Mr. FELLER. Essentially the price clause was that the price should be Carnegie-Illinois' officially announced domestic base price at various points, less 7.5 percent?

Dr. BAKER. That is correct.

Mr. FELLER. Since the date of that contract, Dr. Baker, you have modified the contract by eliminating the 7.5 percent discount, is that correct?

Dr. BAKER. That is correct.

Mr. FELLER. And at the present time, then, generally speaking, the price clause of your contract with Carnegie-Illinois Steel Corporation is to the effect that the price shall be Carnegie-Illinois' officially announced domestic price on tin plate at various points?

Dr. BAKER. That is correct.

Mr. FELLER. Is that correct, Mr. Fairless?

Mr. FAIRLESS. Yes.

Mr. FELLER. The Carnegie-Illinois Steel Corporation is your largest supplier of tin plate?

Dr. BAKER. It is.

Mr. FELLER. And you have contracts, do you not, with other steel companies for the purchase of tin plate, as you have already stated? Those companies, I understand, include Bethlehem Steel Co., Republic Steel Corporation, Youngstown Sheet & Tube Co., Granite City Steel Co., Jones & Laughlin Steel Co., and also—do you have a contract with Youngstown?

Dr. BAKER. Yes.

Mr. FELLER. And with Inland?

Dr. BAKER. Yes.

Mr. PFELTZ. What was that last—with Inland? We have no contract with Inland.

Mr. FELLER. Dr. Baker, I should like to read the price clause from your contract with Youngstown, with the Youngstown Sheet & Tube Co., a contract entered into between American Can Co. and Youngstown Sheet & Tube Co., October 14, 1936:

Delivered prices for each kind of material and each point of delivery as specified by buyer shall be as follows:

For coated products, from the officially announced domestic base price of Carnegie Illinois Steel Corporation, or its successors, at Pittsburgh, Pa., or Gary, Ind., or elsewhere, in effect at the time of entry of buyer's definite order, depending upon which of said base prices shall result in the lower delivered price, there shall be deducted 7.5 per cent—

And then the clause goes on to deal with transportation charges and extras and deductions.

I should like to ask you this, Dr. Baker: In the various contracts which you had with steel companies selling you tin plate, did you have a clause similar to this; that is to say, a clause providing that the price should be on the basis of the officially announced price of Carnegie-Illinois Steel Corporation, less a certain discount?

Dr. BAKER. Yes.

Mr. FELLER. Of 7½ percent. And at the present time those contracts still contain the provision that the price shall be the officially announced price of Carnegie-Illinois Steel Corporation, but you have, since the conclusion of those contracts, eliminated this kind of discount clause.

Dr. BAKER. That is correct.

Mr. FELLER. It appears, then, that in all your steel contracts the price is made dependent upon the officially announced price of your largest supplier; that is the Carnegie-Illinois Steel Corporation. Then, on the basis of these contracts, whenever Carnegie-Illinois Steel Corporation announces officially a different price—if it announces for example, a price deduction, then all the other steel companies which supply you on the basis of contract are required to give you a lower price. Is that correct—a price equivalent to the officially announced price of the Carnegie-Illinois Steel Corporation.

Dr. BAKER. They agreed to sell tin plate on the same basis which we buy from the Carnegie-Illinois Steel Corporation.

Mr. FELLER. At least, the official price of the tin plate, of all the tin plate which your company buys under contract, is under the control of the Carnegie-Illinois Steel Corporation.

Dr. BAKER. I wouldn't say—while theoretically that might have been the case, our contracts have now all been changed so that we base our price of cans on our own announced price of tin plate.

Mr. FELLER. I was going to come to that almost in a moment, Dr. Baker, the question of the can contract.

Now, Mr. Fairless, in your contracts with other purchasers of tin plate—that is, purchasers other than American Can Co.—do you have a provision similar to the provision in the contract of the American Can Co.—that is to say, a provision that the price shall be the officially announced price of Carnegie-Illinois Steel Corporation?

Mr. FAIRLESS. I don't know that we have any contracts that read just as you have stated, in that language. In effect, yes.

Mr. FELLER. Similar, in effect?

Mr. FAIRLESS. Yes. In other words, we sell tin plate to others, some contractually and others otherwise, at the same price that we sell to the American Can Co.

Mr. FELLER. Mr. Fairless, is it customary in the sale of other steel products to provide that the price shall vary in accordance with the official announcement of price of one of the producers?

Mr. FAIRLESS. I do not understand your question.

Mr. FELLER. Well, we have just seen that the various contracts which the American Can Co. has for the purchase of tin plate provide that the price under the contract shall be the officially announced price of the Carnegie-Illinois Steel Corporation. Are you familiar with similar clauses in contracts for the purchase of steel products other than tin plate?

Mr. FAIRLESS. Oh, yes. It has been the custom in this industry as long as I have been in it for contracts to be based on the Iron Age quotation of steel products. In my early days in the steel business I was a large buyer of semifinished steel, and we bought for years our semifinished requirements on a contract that had as its base the Iron Age—the average Iron Age—quotations of semifinished for a period of time. Contracts are written in the steel business, have

been in the past, and might very well still be, based on pig-iron quotations. It isn't an uncommon——

Mr. FELLER (interposing). Taken from the Iron Age.

Mr. FAIRLESS. Or some trade paper.

Mr. FELLER. Or some trade paper. Are you familiar with any contract which provides specifically for a price announced by some other steel producer by name?

Mr. FAIRLESS. No; only I think—and this is your investigation, not mine—it would be very well to have the background of what the tin-plate business is, and how it is conducted by comparison with other steel business.

Mr. FELLER. I think this might be a good point to have that. Go ahead, Mr. Fairless.

Mr. FAIRLESS. I think maybe Dr. Baker is better equipped.

Mr. FELLER. Go ahead; tell us about it.

Mr. FAIRLESS. The background of tin plate is more different from a merchandising standpoint than any other steel product. In effect, we have to name a price on tin plate that is good for 12 months. Theoretically, and as per the contracts, it covers a period of 9 months, but practically it usually works out that it covers 12 months. So to that extent it is an entirely different method of merchandising than practically any other steel product, where we announce our prices for 90-day periods.

Also, in tin plate we are dealing with an uncertainty costwise that we do not have to contend with in practically any other steel product, at last in respect to volume, and that is pig tin, so when we name a price, which usually comes around about the first of December or sometimes earlier, we announce a price for tin plate, and that price is good for next year. It can't be any higher. It might be lower but it can't be higher, and we have to gamble with the factors of cost, such as pig tin, labor, or any other item. So it is a different product, and it is sold on a different basis.

Now you might say, "Why?" Dr. Baker can explain why much more clearly than I can because of the nature of his business and the necessity of price protection.

Mr. FELLER. Mr. Fairless, your statement is with reference to the method of pricing by Carnegie-Illinois—that is, the United States Steel Corporation?

Mr. FAIRLESS. That is all I am talking about at any time.

Mr. FELLER. Now, Dr. Baker, could you explain to us why, in your opinion, other producers of tin plate should, in their contracts, specifically provide that the price would be the price announced by Carnegie-Illinois Steel Corporation?

Dr. BAKER. We make our can contracts naming the price on January 1 each year. That is good throughout the whole year. In other words, it is a ceiling price. In order to be able to do that you have to know that you, yourself, are covered, and that is what we did in our contracts with Carnegie-Illinois and other tin-plate manufacturers, so that we were protected and our customers were protected by a uniform price throughout the year, which has been the method necessary to process agricultural products in as varying a climate as from Utah to Florida for tomatoes, for instance. They wanted a uniform price throughout the year. They wanted to be able to sell

futures; they wanted an important element of their canned-foods cost, the container, to be at a stable price throughout the year, and that system was devised to enable that to be done by the use of a so-called official price of tin plate.

Mr. FELLER. The official price being the price announced by Carnegie-Illinois Steel Corporation?

Dr. BAKER. Yes.

Mr. FELLER. Did any of your other suppliers of tin plate object to taking as the standard the price announced by somebody else?

Dr. BAKER. Not that I know of. Do you know of any, Mr. Pfeltz?

Mr. PFELTZ. No.

Mr. FELLER. Can you tell us how long this system has been in effect, the system by which various steel producers provide in their contracts with you that the price shall be the officially announced price of a subsidiary of the Steel Corporation?

Dr. BAKER. I don't know the exact date it began but it was a very long time ago. It was practically the beginning of the real advancement of the canning industry. It must be practically 30 years.

CONTRACTS FOR THE SALE OF CANS

Mr. FELLER. Dr. Baker, we will come back to the question of the contracts for sales of tin plate, but I think since you have mentioned the contracts for the sale of the cans which are made from the tin plate, that perhaps we might go into that to some extent.

Dr. Baker, I understand that the contracts for the sale of cans are, generally speaking, uniform with respect to all or most of the purchases of cans from you, uniform with respect to terms.

Dr. BAKER. Yes; we use the one form of contract.

Mr. FELLER. You use one form of contract with respect to all your sales of packer's cans, which include both the sanitary cans for packing food and the milk cans for packing milk. Now, I understand that very recently you have made a change in the form of those contracts, have you not?

Dr. BAKER. Yes; we have.

Mr. FELLER. Dr. Baker, I should like to have you state to the committee, first the provision in your contracts for the sale of cans prior to the change, and then the provisions of the new contracts; I mean specifically the provisions relating to price.

Dr. BAKER. The provisions in the old contract, adjusted on January 1 prices for tin to the tin plate basis as named by the Carnegie-Illinois Steel Corporation, effective January 1 of each year.

Mr. FELLER. In other words, to get this clear, the price at which you sold cans to your customers was dependent upon, or was related to, the officially announced price of tin plate as announced by Carnegie-Illinois Steel Corporation.

Dr. BAKER. It was related to that and cans were invoiced on that basis.

Mr. FELLER. Will you go ahead, Dr. Baker? That in effect was the contract prior to the recent change?

Dr. BAKER. Yes.

Mr. FELLER. Now when did you change your contract?

Dr. BAKER. We have just changed it this fall, early this fall. We have made this change in our contract, that we protect ourselves on

tin plate purchases, that is we cover the price at which we can buy tin plate, and we make our own announced price which is for invoicing purposes, and we say that at the end of each year we will compute the actual average price paid for ordered production sizes of tin plate, and to the extent that that price may be less than the January 1 price, we refund to our customers everything except 10 cents per base box. In other words, it has a provision, a contractual provision, for adjusting it to the market, if the market should go downward. They are at all times protected if the price should go up, but we never had before a contractual relationship for doing this. It has been done on a voluntary basis before, but that was uncertain and it was voluntary, and to that extent was not quite satisfactory.

Mr. Feller. Mr. Chairman, for the purposes of the record, I should like to read the respective provisions relating to price of the old can contracts, and then of the new can contracts, if the committee will bear with me.

In the old contracts for sanitary cans, the following provisions occur:

> Basis for fixing prices: The following prices shall be the prices of Sanitary cans under this contract until December 31, 19—, and thereafter shall be used as the basis for fixing all prices for said cans:

The contract then proceeds to set out the differentials depending on the size of cans, and for the purpose of the record I shall read these:

Standard sizes of cans	*Differentials per M*
No. 1	18 cents.
No. 2	26 "
No. 2½	33 "
No. 3–4⅞ inches	38 "
No. 10	74 "

The contract then goes on to provide:

> The official price of the Carnegie-Illinois Steel Corporation for tin plate, per base box 100 lb. Coke Plate, 14″ x 20″, 112 sheets per box, F. O. B. Mill, Pittsburgh, Pa., shall be the standard by which all readjustments of prices of cans covered hereby shall be determined. On ———— said official price was $———— per base box. Prices of cans shall advance or decline from the above named basis prices in accord with said official price for said tin plate in the following manner; that is to say, there shall be no change made in the above named prices for cans except in case of a difference of at least ten cents (10¢) per base box between said official price for tin plate on any adjustment date and the above named officials price of $———— per base box. For each said difference of ten cents (10¢) on any and all adjustment dates there shall be added to or deducted from the above named prices for cans the corresponding differential set over against each size of can and a proportionate addition or deduction for each fractional difference beyond ten cents (10¢) or a multiple thereof. Prices so determined shall take effect on the dates of readjustment and shall cover all deliveries made during the period until the next adjustment date.

Dr. Baker, if I understand your old contract provision correctly, the price of cans which you manufactured and sold under this contract would go up or down in certain stated ways, depending upon changes in the officially announced price of Carnegie-Illinois for tin plate.

Dr. Baker. That is correct, sir. Of course we might on our own account do something else besides that, voluntarily, although it was not in the contract.

Mr. Feller. We shall go into that, Dr. Baker, at some length. Now, how long was this contract in effect?

Dr. Baker. This old form of contract?

Mr. Feller. Yes.

Dr. Baker. It has been changed in minor degrees about every issue, but something over 25 years I believe that type of form has been used, perhaps 30. I haven't looked that up.

Mr. Feller. Now for the purposes of the record, Mr. Chairman I should like to crave the patience of the committee while I read in the price provisions of the new contracts.

Method of announcing tin plate prices: The officially announced price on January 1st of each year (described in Seller's previous can contracts as the official price of Carnegie-Illinois Steel Corporation) for tin plate, per base box, 100 lb. standard coke plate, 14" x 20", 112 sheets per base box, F. O. B. Mill, Pittsburgh, Pa., has been for years the standard adjustment basis by which prices of cans covered by American Can Company Packers' Can contracts have been reaffirmed or adjusted for the ensuing calendar year. Said officially announced price was subject to the regular allowances for cash and multiple packaging on all ordered production sizes of prime plate with seconds arising, with regular allowance for seconds, and with differentials for lighter and heavier gauge plate. On January 1st, 1939, said official price as above described was $5.00 per base box.

Prior to and effective January 1st of each year and of the term of this contract, American Can Company will announce the base box price for tin plate, which shall be used as the adjustment basis for all cans covered by this contract for that calendar year. The base box forming a basis for such announced price shall be the same as set forth in the preceding paragraph describing the official base box price of the Carnegie-Illinois Steel Corporation. Said announced price of the American Can Company shall not be higher than the January 1st officially announced or published price per base box for tin plate of the Carnegie-Illinois Steel Corporation covering deliveries of tin plate for the first three quarters of the ensuing calendar year, and said announced price of American Can Company shall be subject to a year end readjustment for each calendar year under the provisions of this contract as hereinafter set forth.

Continuing:

Method for adjusting invoice prices of cans at the beginning of each year of this contract: The announced price of the American Can Company for tin plate per base box, 100 lb. standard coke plate, 14" x 20", 112 sheets per base box, F. O. B. Mill, Pittsburgh, Pa. as herein described in paragraph No. 3—

Which is the paragraph I just finished reading—

shall be the standard by which all adjustments or readjustments of prices of cans covered hereby shall be determined. Such tin plate price on January 1st, 1939 is hereby recognized as the announced price of $5.00 per base box and the above named basis prices for cans are computed with reference to said tin plate price. Prices of cans shall advance or decline from the above named basis prices for cans in accord with said announced price for said tin plate in the following manner, that is to say, for each calendar year during the term of this contract the tentative prices of cans sold hereunder, which shall be the invoice prices, shall be determined by adding to or subtracting from the basis prices of cans covered by this contract an amount equal to the differential set over against each size of can named herein for each variation of ten cents (10¢) from said price of $5.00 per base box, in the announced price of tin plate for such year, and an amount equal to the fractional part of such differential for each such variation of less than ten cents (10¢) in the announced price. Prices so determined shall take effect on the dates of readjustment and shall cover all deliveries made during the period until the next adjustment date. The first adjustment date shall be January 1st, 1940, and other adjustment dates thereafter shall be January 1st of each year of the term hereof.

Paragraph 6, and I need read only one portion of that paragraph:

Method for readjusting can prices at the end of each year of this contract: After the end of each calendar year the invoice price of cans sold hereunder during such year shall be subject to readjustment in the following manner; Seller shall compute the average price actually paid by it for all ordered production sizes of tin plate bought by Seller during said year for use in the

manufacture of all tin cans, upon the basis of a base box as above described in the definition of the officially announced price of the Carnegie-Illinois Steel Corporation. If such average price shall be less than the announced price for the year by an amount less than ten cents (10¢) per base box, no readjustment shall be made in the invoice prices of cans. If such average price shall be less than the announced price for the year by an amount more than ten cents (10¢) per base box, Seller will refund to Buyer an amount equal to one differential for each ten cents (10¢) of such difference in excess of the first ten cents (10¢), for which no readjustment shall be made, and a proportionate share of one differential for any fractional amount of such difference beyond ten cents (10¢) or a multiple thereof. Said refund to be paid to Buyer, or at Seller's option credited to any indebtedness of Buyer to Seller within sixty (60) days after December 31st of each calendar year of said contract in which said refund shall apply.

That is the end of that. So that the committee should get clear the difference, is this a correct statement, Dr. Baker? Under your old contracts the price for cans varied in certain fixed relationships with the officially announced price of Carnegie-Illinois. I am talking now merely on the basis of what the contracts provided. Under your new contracts the prices in the first instance will vary with the officially announced price of Carnegie-Illinois, but you will make an adjustment with each of your customers on the price of cans periodically, which will reflect the actual prices which you have paid for tin plate as distinguished from the officially announced prices of Carnegie-Illinois. Is that a correct statement?

Dr. Baker. That is substantially correct. You said the officially announced price of Carnegie-Illinois Steel Corporation. It would be the American Can Co. announced price, we say which shall not be higher than the officially announced price of Carnegie-Illinois Steel Corporation. We don't say it will not be lower.

Mr. Feller. I see.

Dr. Baker. Outside of that I think your statement is correct.

Mr. Feller. The net effect of it to the purchaser of cans is this, is it not? Under the old contract your contractual obligation was limited to a variation of the price of cans only insofar as the officially announced price of Carnegie-Illinois varied.

Dr. Baker. That is correct.

Mr. Feller. Under the new contract you have a contractual obligation to vary the price of cans in accordance with the actual price which you have paid for tin plate.

Dr. Baker. Yes.

Mr. Feller. Mr. Chairman, at this point I should like to offer for the record a chart entitled "Contract Sales Price of No. 2 Plain Sanitary Tin Cans (Coke) by Years, 1929–39." The source is Poor's, from the American Can Co.

Acting Chairman King. It may be admitted.

(The chart referred to was marked "Exhibit No. 1401," and is included in the appendix on p. 10988.)

Acting Chairman King. Dr. Baker, I assume as to the source, Poor's from the American Can Co., that you concede the accuracy or the authenticity; you concede that that organization, whatever it is, its reports are accurate?

Dr. Baker. Which are you referring to, Senator?

Acting Chairman King. I am referring now to the last chart to which Mr. Feller referred and to the statement at the bottom: "Source: Poor's, From the American Can Co."

Mr. FELLER. Mr. Chairman, Poor's is a large organization making surveys of business, just like Moody's.

Acting Chairman KING. That is what I understand.

Mr. FELLER. This chart was printed by Poor's in a study made of the American Can Co.

Acting Chairman KING. What I am trying to ascertain is whether Dr. Baker questions the accuracy of this chart, or the findings or surveys of Poor's or whether he accepts that study.

Mr. FELLER. No, sir; not that study, merely the chart indicating the can prices. He certainly couldn't be bound by anything said in a study with respect to business, and so on, other than that.

Acting Chairman KING. What I mean is whether he accepts the chart as being substantially accurate.

Dr. BAKER. I would say this, Senator: that the sources for information are available and I would have no grounds for doubting the chart is proper.

Mr. PFELTZ. The only possible error that may have been made is for 1938 when we did adjust prices.

Mr. FELLER. Yes, sir; we will go into that. As you will notice at the top, from the heading there, it deals with contract sales prices, and adjustments made out of the contract we will come to before the conclusion of this testimony.

Dr. Baker, could you tell the committee why this change was made in the uniform contract for the sale of cans by your company?

Dr. BAKER. It seemed to us to be fair and desirable for the reason that the market price of tin plate showed instability due to fluctuations in economic conditions and price of pig tin, labor elements, and there was such a large amount of high speed manufacturing capacity for tin plate, all of which would tend to make an unstable market, and our experience had been in 1938 that the January 1 price as announced did not properly reflect the actual market price for tin plate throughout the year 1938, and we voluntarily made an adjustment to the market price which we were able to secure on a lower basis than the January 1 price, and we thought that the time had come when we should put that in definite contractual form.

Mr. FELLER. I am not sure that the committee quite understands why you felt it necessary to make that change. You made the change because of the effect of tin-plate prices on cans, or vice versa? I wish you would explain that just a little further.

Dr. BAKER. The conditions surrounding manufacture of tin plate, the excess capacity in the country to manufacture tin plate, and the wide fluctuations in the economic conditions, tended to produce an unstable market in the price of tin plate, and as we said, in 1938 we had that experience. We took care of it on a voluntary basis, but we then thought that we should put it on a definite contractual basis, and that is what we did, making the additional change that we would make our own announced price for tin plate instead of using the officially announced price of Carnegie-Illinois Steel Corporation.

Mr. FELLER. Why should it be of concern to your customers that the market for tin plate is unstable? Your customers buy cans, not tin plate.

Dr. BAKER. Yes; but the price of cans was adjusted each year to the price of tin plate as announced on January 1, and naturally they

wanted to buy tin cans on a proper basis which could only be done if tin plate was purchased on as close a basis as possible. We wanted to set ourselves up as an adequately equipped purchasing agency for our customers.

Mr. FELLER. By this unstable market for tin plate do you mean an unstable price?

Dr. BAKER. Oh, yes.

Mr. FELLER. You mean that actually the officially announced prices were not being charged?

Dr. BAKER. Tin plate was being sold for less than the January 1 price.

Mr. FELLER. Were there years previous to 1938 when the market for tin plate was unstable?

Dr. BAKER. I think that there were. I know there were particularly after the last war, in 1919 and '20. We made a great many voluntary adjustments at that time and then there were questions about the stability of the price after 1930, and '31, '32, '33, with rather confused conditions.

Mr. FELLER. Did you issue this new form of contract because you wanted to stabilize tin plate?

Dr. BAKER. No. We entered into it because we wanted to do the best job that we could for our canner customers, and buy tin plate on the best basis possible and let our customers know exactly what that basis was. In order to write 3-year contracts we have to have an adjustable feature for tin plate, and the only way that we could figure it out was to name a price, announce a price, which was good for the year, a ceiling price than which it can go no higher, and if the market proves that that price was too high and we are able to improve on it, then we return to the customers all of the improvement which we have received less the 10-cents on base box.

Mr. FELLER. Under your old form of contract in which you had a contractual obligation to vary the price of cans only if the officially announced price were varied, was it your experience that your customers would complain that the officially announced price was too high?

Dr. BAKER. They sometimes thought it was too high because they thought the price of cans was too high dependent on their market conditions. What they mostly complained of was that the situation was not clear, they didn't know exactly what was being done and they thought that they were being compelled to trust us too much.

Mr. FELLER. You say the situation was not clear. The contract was perfectly clear. You had an obligation with respect to changing the price of cans only when the officially announced price changed.

Dr. BAKER. Yes.

Mr. FELLER. What was there unclear about the situation in the minds of your customers?

Dr. BAKER. Whether that price proved to be a proper market price for the year each year.

Mr. FELLER. They entered into contracts in which their rights were tied to the officially announced price. Of what interest was it to them what the actual price was?

Dr. BAKER. Well, if the actual price was lower than the January 1 price and we were benefiting by that, then they would think they would be paying too much for their cans.

Mr. FELLER. In other words, your customers were occasionally bothered by the fact that you might be getting a concession from the officially announced price which was not being passed on to them.

Dr. BAKER. Yes, they had those thoughts in mind at times.

Mr. HENDERSON. May I ask a question? I am not quite clear myself on this 7½ percent. The American Can Co. got that, did they not?

Dr. BAKER. They did.

Mr. HENDERSON. The customer did not.

Dr. BAKER. No.

Mr. HENDERSON. Did many of your customers know of that arrangement you had?

Dr. BAKER. They all knew that there was some arrangement but the customers did not know it generally. It wasn't a generally known fact until the N. R. A. Code days when a contract became public property for everybody.

Mr. HENDERSON. They didn't know it until then?

Dr. BAKER. Not exactly.

Mr. HENDERSON. They knew that you did get a concession, that your cost was not the officially published Carnegie price.

Dr. BAKER. Oh, yes.

Mr. HENDERSON. As I understand they thought, at times perhaps in addition to a fixed concession you might have gotten a reduction from the official base price also.

Dr. BAKER. Yes.

Mr. HENDERSON. And so they thought they ought to have a lower price in adjustment of their contracts?

Dr. BAKER. Yes.

Mr. HENDERSON. But in your opinion is the new contract clearer than the old one?

Dr. BAKER. Oh, absolutely.

Mr. HENDERSON. Doesn't it involve more computations?

Dr. BAKER. It involves more computations but in the end it is perfectly clear and definite. There is quite a lot of work in keeping those figures and preparing them, but the answer is simple.

Mr. HENDERSON. Somebody buying your cans under the old contract could tell by reference to Iron Age or any published information pretty much whether he was going to get an adjustment and what the amount of the adjustment would be, could he not?

Dr. BAKER. No. The adjustment only was to be made by the January 1 published price and there was no obligation to make any further adjustments if the price should change, if the market should soften or weaken.

Mr. HENDERSON. If Carnegie-Illinois posted a lower official price in the second quarter or the third quarter, your customer was bound by the January 1 price?

Dr. BAKER. Technically so, although whenever that occurred we gave them what the lower price was.

Mr. HENDERSON. Can a customer as he goes along now make a computation as to what his refund is likely to be?

Dr. BAKER. Yes; if he knows what the market price of tin plate is turning out to be as the year goes on. It is very simple for him, because for each 10 cents of change from that January 1 price all he

has to do is look at his scale of differentials and if it is a No. 2 can he sees it means 26 cents to him if there is a 10-cent weakening in the price.

Mr. FELLER. Is the customer apt to know what the market price actually is?

Dr. BAKER. In some cases, yes.

Mr. FELLER. How would he know that?

Dr. BAKER. There are numbers of them who buy tin plate themselves and do some manufacturing.

Mr. FELLER. Yes; but let us take a small canner on the Eastern Shore of Maryland who doesn't buy any tin plate. Is there any way that he has of knowing what the actual market price for tin plate is at any particular time?

Dr. BAKER. No; not unless he gets something from the trade papers.

Mr. FELLER. Not unless the trade papers carried some statement to the effect that it is understood that the market price is such and such.

Dr. BAKER. Yes; that is the only way he would have of knowing it.

Mr. FELLER. Can you tell us, Dr. Baker, just when you decided to make the change from the old contract to the new contract?

Dr. BAKER. We had been working on it since 1938.

Mr. FELLER. When did you issue the first of these new contracts?

Dr. BAKER. In early October, I would say.

Mr. FELLER. In early October.

Dr. BAKER. Yes.

Acting Chairman KING. Of this year?

Dr. BAKER. Yes, sir.

Mr. FELLER. Could you tell us whether there was any customer pressure which was responsible for these new contracts? Did your customers come around and say, "Why don't you change your contract?"

Dr. BAKER. They didn't know how to change them but we thought that this type of contract would be perfectly clear and definite, would be pleasing to them, and it has so proven.

Mr. FELLER. Well, you had no specific complaints with reference to your old contract?

Dr. BAKER. Oh, yes.

Mr. FELLER. And specifically those complaints were that the customer felt that you might be getting a concession which was not being passed on to him?

Dr. BAKER. Oh, yes; several of them brought up that possibility and said that it was not covered in the contract, and it was not.

Mr. HENDERSON. If you don't care to comment on this, that is your right, but did the general discussions of price policy going on in the current year have anything to do with your decision? I have heard rumor to the effect that the deliberations of this committee and general considerations of price did affect it, and I wondered whether you wanted to comment on that. If you don't it is perfectly all right.

Dr. BAKER. I don't think that I should make any general statement on that. I have explained our position to Mr. Feller personally on that.

Mr. HENDERSON. You mean privately you have explained to Mr. Feller in connection with this examination?

Dr. BAKER. In connection with this examination.

Mr. O'CONNELL. Do I understand that your contracts with suppliers of tin plate, in these contracts, the price that you pay for tin plate is tied to or determined by the announced price of the Carnegie-Illinois?

Dr. BAKER. Yes, sir; that is the way they have been.

Mr. O'CONNELL. I also understood you to say that under those contracts the market price for tin was off or you were able to get concessions from the announced price of Carnegie-Illinois which as a voluntary proposition you passed on in some cases at least to your customers.

Dr. BAKER. Yes, sir; in an unusual year like 1938.

Mr. O'CONNELL. In an unusual year such as 1938 you were, although obligated to pay your suppliers the announced price of Carnegie-Illinois, in fact able to obtain concessions from those prices?

Dr. BAKER. Yes; they adjusted to the market basis, whether they had a contract or not.

Mr. O'CONNELL. You mean the actual market as distinguished from the announced price?

Dr. BAKER. Yes; actual selling prices that would be made.

Mr. O'CONNELL. That was something not covered by your contract with your suppliers?

Dr. BAKER. No; it was not covered contractually because we don't know how to put it in words except that we do expect our suppliers to keep us in a competitive condition with respect to the purchase of our raw material.

Mr. O'CONNELL. But your contract provided that you would pay an announced price of Carnegie-Illinois, so that the concessions you were able to obtain were mutually agreed upon and contrary to the provisions of the contract, as I would understand it.

Dr. BAKER They were not included in the contract.

Mr. O'CONNELL. The contract provided for another basis of price?

Dr. BAKER. Yes.

Mr. FELLER. Dr. Baker, I wasn't quite clear from your answer to Mr. Henderson's question, would you prefer that I preserve confidence with respect to the statement that you made to me? It is quite all right with me.

Dr. BAKER. I am only guessing a little bit about what Mr. Henderson actually meant.

Mr. FELLER. I will take it, then, that you don't want me to say anything about it, and I shan't.

Dr. BAKER. I covered it with you. The records are clear.

Mr. FELLER. I shan't say anything further about it, then.

Mr. PFELTZ. You have a copy of that transcript, haven't you?

Mr. FELLER. Yes, sir. My question was whether you cared to have me say anything about that or whether you preferred not to.

Dr. BAKER. Oh, no; you can use anything that you want to as far as I am concerned.

Mr. FELLER. The conversation between Dr. Baker and myself took place on October 16, 1939, at the Department of Justice. The statement of Dr. Baker to me was as follows:

We want to be perfectly free to take advantage of any price that is of benefit to our customers. We don't want to have anything that is fixed or rigid. We

have got to have an invoicing price. We have to have a ceiling price. Then we have to have means of adjusting it to the market basis. Theoretically this seems to take care of all of the things that our customers might expect us to take care of, and all the things which we have thought it probable that you gentlemen would also like to have taken care of. Maybe some of your inspiration is back of this. I would like to have your reaction.

My answer to that was:

Purely as a personal reaction I would say that I think it is a better contract—

and Dr. Baker went on to say:

That is the way our customers seem to feel because they accept it very readily and exchange it and sign new ones.

That is more or less what you had in mind at that time?

Dr. Baker. Yes.

Mr. Henderson. May I ask another question independent of that? In a normal year how much would the 7½ percent amount to on your total volume of business with all your suppliers?

Mr. Pfeltz. We don't have 7½ percent.

Mr. Henderson. When you had it.

Mr. Pfeltz. When we had it?

Mr. Henderson. Yes.

Mr. Pfeltz. It would probably have amounted to four or five million dollars.

Mr. Henderson. So in effect what you are doing under the present circumstances is making what amounts to a concession on your part of something like $4,000,000?

Dr. Baker. That was discontinued back in 1936.

Mr. Henderson. That is what I am getting at. I wanted to get clear it was a relinquishment on your part.

Mr. Pfeltz. And that is shown on this chart of contract sales price of No. 2 sanitary cans, where we dropped the price from $2.30 or $2.40 per hundred down to below $2 at the beginning of 1937. That wss passed on to our customers.

Mr. Henderson. I understand the answer is yes, that it was a relinquishment on your part.

Mr. Pfeltz. Yes.

Dr. Baker. I should bring out the point, however, that at that time all other buyers of tin plate were getting the self-same 7½ percent as far as we know.

Mr. Pfeltz. Or more.

Mr. Henderson. As far as you know.

Mr. Feller. I might add as far as we know the same is true.

May I suggest, if there are no further questions, the meeting adjourn at this point because we are going into an elaboration later.

Acting Chairman King. We will adjourn until half past two.

(Whereupon, at 12:15 p. m., the committee recessed until 2:30 p. m. of the same day.)

AFTERNOON SESSION

The hearing was resumed at 2:30 p. m. upon the expiration of the recess, Representative Williams presiding.

Acting Chairman Williams. The committee will please be in order. Mr. Feller, are you ready to proceed?

Mr. Feller. Yes, sir.

Mr. Chairman, I should first like to introduce for the record a table entitled "Relationship of Cost of Tin Can to Selling Price of Canned Products, No. 2 Can." The source of the figures is from a publication called the Almanac of the Canning Industry, published annually by the Canning Trade Publishing Co., Baltimore, Md.

Acting Chairman WILLIAMS. It may be admitted.

(The table referred to was marked "Exhibit No. 1402," and is included in the appendix on p. 10989.)

Mr. FELLER. The committee might be interested in studying these figures, which give the relationship of the cost of the can to the selling price of the can plus the contents. In the case of three major vegetables, tomatoes, corn, and peas, it is given by years. I may say if Dr. Baker would care at some later date to put in some other figures, we should be very happy to have him do so. I don't know of any other figures on this subject.

Acting Chairman WILLIAMS. Have you examined this before, Doctor?

Dr. BAKER. No, sir.

Acting Chairman WILLIAMS. If you care to do so at this time, perhaps you haven't had any time to do so in detail, if you have any comments to make on it——

Mr. AVILDSEN (interposing). Do you know, Mr. Feller, if this is the retail selling price or the wholesale selling price?

Mr. Feller. I believe it is the wholesale selling price.

Dr. BAKER. Of course, it is impossible to check up a matter of this kind in any quick way. Undoubtedly it has been compiled from trade paper references and should be fairly correct, although it is probably impossible to have it ever exactly correct.

Mr. FELLER. Yes; I think that would be true.

Dr. Baker, I believe you wanted to elaborate just a bit with respect to the price clause in your contract for the purchase of tin plate. Would you care to make a further statement with respect to that?

Dr. BAKER. In answer to your question about the tin-plate contracts and their bearing on can contracts, I neglected to say that in all of our tin-plate contracts except one, the Bethlehem Steel Co., there is a provision that if those companies sell tin plate at a lower price, they will lower their price to us to that extent, and that was not included in a general statement. That was incomplete without that further statement.

Mr. FELLER. Yes, sir.

Mr. Fairless, reference has been made from time to time to the officially announced price of Carnegie-Illinois, officially announced price of tin plate, and reference has also been made to the fact that at times tin plate has actually been sold in the market at a price below the officially announced price of Carnegie-Illinois. Do you recall any occasions on which Carnegie-Illnois took the initiative in selling below the officially announced price?

Mr. FAIRLESS. No; it would be contrary to our policy to take the initiative in selling below our announced prices of any product, tin plate or otherwise.

Mr. FELLER. Your policy, then, is to attempt to adhere in your sales as closely as possible to your officially announced price.

Mr. FAIRLESS. That is the reason for announcing the price.

Mr. FELLER. Dr. Baker, may I ask whether the American Can Co. has also felt it to its interest to see to it that the officially announced price was maintained insofar as it was possible for you to do that?

Dr. BAKER. It is always advantageous for the proper price to be named and for it not to be subject to any criticism or necessity of revision.

Mr. FELLER. Mr. Hughes, may I ask you to identify this document which appears to be a memorandum signed by you addressed to Mr. W. A. Irvin, dated October 15, 1935, taken from the files of your company.

Mr. HUGHES. It seems to be.

Mr. FELLER. I offer this for the record.

(The document referred to was marked "Exhibit No. 1403" and is included in the appendix on p. 10989.)

Mr. FELLER. This document reads as follows:

> In connection with the American Can Company claim I think an important point which is perhaps not fully realized by Mr. Wheeler and other members of the Executive Committee, is that before we assented to the Steel Code containing this provision we submitted the actual wording to Mr. Phelps for his comment.

Mr. Phelps was connected with the American Can Co.?

Mr. HUGHES. He was president at that time.

Mr. FELLER. (reading further from Exhibit No. 1403):

> Unfortunately for us this was done verbally and not in writing. Mr. Phelps had no comment to make, the reason being that it—

I take it that is the provision in the Steel Code—

> accomplished the very purpose that he has been seeking for several years, namely no cutting of the American Can price.

May I ask you, Mr. Hughes, to explain what you had in mind when you stated that Mr. Phelps had a purpose which was to be no cutting of the American Can price?

Mr. HUGHES. Does that so state, "a purpose"?

Mr. FELLER (reading further from Exhibit No. 1403):

> The reason being that it accomplished the very purpose that he has been seeking for several years, namely, no cutting of the American Can price.

Would you like to look at it?

Mr. HUGHES. The question is, What was the purpose?

Mr. FELLER. No; the question is—let me take it in stages. The American Can price that you are referring to there, is that the price at which American Can purchased tin plate, or the price at which it sold cans?

Mr. HUGHES. It was the price announced by Carnegie-Illinois Steel Corporation, the purchase price from us.

Mr. FELLER. Could you tell us why, in your view, at that time Mr. Phelps should have wanted the American Can price not to be cut?

Mr. HUGHES. The price of tin plate that we had announced?

Mr. FELLER. That is right.

Mr. HUGHES. Presumably he thought his competitors might be buying at a lower price.

Mr. FELLER. And you felt at that time that it was to his interest to see to it that the officially announced price was maintained?

Mr. HUGHES. Yes.

Mr. Feller. Dr. Baker, would you care to comment on that, whether that was in fact the purpose of the officials of the American Can Co. at that time, or several years before that time?

Dr. Baker. That was before I was in charge of affairs and I wouldn't have any other opinion than what the record itself, and the explanation as given, would call for.

Mr. O'Connell. May I ask a question here? Dr. Baker, would you have any view as to whether your company would want the price, the posted price or the published price of Carnegie-Illinois maintained as to your company, as well as to other companies, or were you interested in seeing that whatever price was obtained for tin plate was available to you as well as to your competitors? In other words, were you interested in maintaining the posted price or were you interested in getting the same price that your competitors would get?

Dr. Baker. We were interested in having as good a price as our competitors would get.

Mr. O'Connell. As good a price as your competitors, and you were not interested in keeping the posted price of Carnegie-Illinois at its posted level.

Dr. Baker. We wanted the Carnegie-Illinois price to be as good for us as the price to other people. We wanted it good enough for us and good enough for our competitors, too. Otherwise, there might be confusion, chaos, misunderstanding.

Mr. O'Connell. And of course the most practical way of seeing to it that your competitors would get no better price than you——

Dr. Baker (interposing). Would be to get a good price.

Mr. O'Connell. Encourage the adherence to the posted price as far as possible.

Dr. Baker. To get a good price, because if it weren't a good price, it would be commercially unsound to try to expect it to be held.

Mr. O'Connell. It would be to the advantage of your company, I take it, to attempt to get concessions from the posted price to the extent you possibly could, or to force the posted price down?

Dr. Baker. The posted price, if it went down, would always be passed on to our customers; if there is a new official price named, we adjust our contracts, although we did not have a definite contractual relationship obligating ourselves to do it.

Mr. O'Connell. Do you mean it didn't make any difference how high the posted price was, so long as your competitor paid the same price?

Dr. Baker. Oh, yes; of course it would.

Mr. O'Connell. I understood you to say whatever reduction was made would be passed on to your customers.

Dr. Baker. That is now. This is at that time when there was no provision for final adjustment.

Mr. O'Connell. Yes. At that time, it was more to your advantage, to the advantage of your company, to get a reduction, not in the posted price but in the actual price as distinguished from the present time.

Dr. Baker. It would have been that way; yes.

Mr. Avildsen. But actually you were passing the savings on voluntarily, is that it?

Dr. Baker. We did whenever there was a new official price posted.

Mr. O'CONNELL. Whenever there was a new official price posted?

Dr. BAKER. Yes.

Mr. O'CONNELL. But I also understood you to say during this period it was possible on occasion to get a price concession without change in the posted price.

Dr. BAKER. Yes, it was.

Mr. O'CONNELL. Would that price concession obtained by you be passed on to your customers?

Dr. BAKER. We did do that in '38.

Mr. O'CONNELL. I am speaking of this period prior to 1936.

Dr. BAKER. I don't recall anything. I was in the sales department at that time in Chicago and I do recall several adjustments being made, but officially I know nothing about this. This was another set of officials that were involved.

Mr. O'CONNELL. I want to be sure I understand this. Prior to 1936, as I understand it, your contracts with your customers provided for a price based on the posted price of Carnegie-Illinois.

Dr. BAKER. Yes.

Mr. O'CONNELL. Your contract with Carnegie-Illinois and with the other suppliers of tin plate provided for the posted price less 7½ percent.

Dr. BAKER. Yes.

Mr. O'CONNELL. And on occasion it was possible to obtain additional price concessions from the suppliers of tin plate. I think you testified to that general effect this morning.

Dr. BAKER. Yes, I think that was so.

Mr. O'CONNELL. The savings so obtained either through the 7½ percent or through the concessions made without change of the posted price were not as a general rule, in this early period, passed on to your customers in contrast to the situation as it exists under your present form of contract. Is that a fair way to contrast those two situations?

Dr. BAKER. No; there was no definite contractual obligation for us to do so in the past. The difference now is that we have put it in a definite contractual form.

Mr. O'CONNELL. I understand the difference in the contractual relationship. I wondered if you had any very clear understanding of the actual situation under the earlier form of contract. We understand what the contractual relationship was. I also understand that the 7½-percent differential was definitely not passed on.

Dr. BAKER. No.

Mr. O'CONNELL. What about price concessions made to your company by your suppliers without a change in the posted price?

Dr. BAKER. I know of none. I was not in charge of company business at this time. Mr. Pfeltz has had continuous charge of the tin plate matter.

Mr. O'CONNELL. May I put the same question to you?

Mr. PFELTZ. So far as I recall prior to 1936 we got no concessions other than those stipulated in the contracts with the different companies and that called for 7½ percent.

Mr. O'CONNELL. Right there, as I understand it, then, the contracts all provided for the posted price with the 7½ percent discount.

Mr. PFELTZ. Yes; and from companies with whom we had no contracts we got 7½ percent the same as those with whom we had contracts.

Mr. O'CONNELL. In 1936 the 7½ percent differential or discount was eliminated?

Mr. PFELTZ. It was eliminated.

Mr. O'CONNELL. Between 1936 and the present time prior to the enactment of the new contract, your contracts with your suppliers were based on the posted price of Carnegie-Illinois without any 7½ percent?

Mr. PFELTZ. That is correct.

Mr. O'CONNELL. But I understand that during that period, subsequent to 1936, there were price concessions on occasion obtained from your suppliers without change in the posted price.

Mr. PFELTZ. No doubt that statement was made but I recall of no concessions having been made to the American Can other than the 7½ percent.

Mr. O'CONNELL. That is clear up to 1936. Are you also saying there were no price concessions made between 1936 and the present time?

Mr. PFELTZ. That was in 1938, and that we in turn passed back to our customers.

Mr. O'CONNELL. That is what I wasn't entirely clear on. Between 1936 and the present form of contract that you are now using——

Mr. PFELTZ (interposing). That is right.

Mr. O'CONNELL. October of this year, there were some price concessions obtained from your suppliers.

Mr. PFELTZ. In the 1 year.

Mr. O'CONNELL. In 1938, without change in the posted price which you are now telling me were in fact passed on to your customers although you were under no legal obligation so to do.

Mr. PFELTZ. That is correct.

Mr. O'CONNELL. From your understanding that is what happened in every case where you had a price concession?

Mr. PFELTZ. That is right.

Mr. AVILDSEN. Mr. Pfeltz, this contract that you adopted last month, is that a contract in which you do agree to do the things you voluntarily did in 1938?

Mr. PFELTZ. That is correct.

Mr. AVILDSEN. It doesn't contain any greater concessions or anything of that sort? It is just what you had been doing voluntarily?

Mr. PFELTZ. No; in 1938 we gave back all that we got. Our new contract contemplates the American Can Co. having an edge, we might call it, of 10 cents on any purchases that we make if we get it. In other words, if the price is $5 and it proved to be not the right price, and the price goes to $4.75, instead of passing back to our customers the 25 cents, we give them 15 cents for each base box that is represented in the various sizes of cans. That, in the case of a No. 2, would amount to 39 cents.

Mr. O'CONNELL. Take the contract that you now have with your suppliers of tin plate. Are those contracts based upon the posted price of Carnegie-Illinois for tin plate at certain given periods?

Mr. PFELTZ. I ask for that again, please.

Mr. O'CONNELL. In the contracts that are now in effect between American Can Co. and its suppliers of tin plate, the price which you pay for your tin plate is based on the posted price of Carnegie-Illinois, is that correct?

Mr. PFELTZ. That is correct.

Mr. O'CONNELL. As of what period?

Mr. PFELTZ. As of any period that Carnegie-Illinois may change their base price and published price.

Mr. O'CONNELL. Does your contract with your customers provide for an adjustment purely based upon changes in the posted price of Carnegie-Illinois?

Mr. PFELTZ. No; on whatever our purchase actually may be.

Mr. O'CONNELL. Do I understand, then, that that is in contemplation of the possibility that although you have a contract with your suppliers to pay them the posted price of Carnegie-Illinois, you anticipate the possibility that you will be able to obtain price concessions apart from changes in the posted price?

Mr. PFELTZ. If conditions warrant, such as in 1938.

Mr. O'CONNELL. Isn't it a possibility? Your present contract with your customers contemplates that possibility, does it not?

Mr. PFELTZ. Yes.

Mr. AVILDSEN. Mr. Pfeltz, do I understand that the 7½-percent concession was eliminated in the N. R. A. days, 1932?

Mr. PFELTZ. No.

Mr. AVILDSEN. What year was that?

Mr. PFELTZ. '36.

Mr. AVILDSEN. Was that in connection with the change in the general price structure?

Mr. PFELTZ. No.

Mr. AVILDSEN. Do you know why it was eliminated? Is there any particular reason why it was eliminated? Was it because of the Robinson-Patman Act?

Dr. BAKER. Everybody was getting the 7½ percent at that time, and the official price——

Mr. PFELTZ (interposing). Was no longer an official price.

Dr. BAKER. Well, it was an absurd condition, because the price was $5.25 less 7½ percent, so they all said, "Well, that isn't any good. Let's make it a $4.85 price and have no discount whatever," and that is what was done.

Mr. O'CONNELL. You mean it was absurd from the point of view of your customers?

Dr. BAKER. Generally it came out in the N. R. A. days, when the contract was made public, that it was 7½ percent; then under the code provisions that was made the price by all steel people. It went on in that way even after the N. R. A., so it was just a change from a gross price which no longer meant anything to a net price.

Mr. O'CONNELL. Something you said this morning gave me the impression that it was largely, or at least to some extent, pressure from your customers that resulted in the elimination of 7½ percent. Their contract, as I understand it, with you, was based upon a posted price which they might in all probability have thought was your price, and when it became apparent to them that your price was, in fact,

7½ percent less, it seemed to them reasonable that they should get the benefit of that.

Dr. BAKER. No; as a matter of fact they seemed to be very much surprised that it was as low as that. We had gone to great pains to tell them that we did not pay the official price, that we had a discount and that others had discounts, too.

Mr. FELLER. Dr. Baker, I should like to just see if we can't clarify this matter somewhat for the committee. You had, for a number of years up until 1936, a contract with a subsidiary of the Steel Corporation providing for a 7½-percent discount from the seller's announced price. It is true, is it not, that in 1936, perhaps somewhat earlier, a controversy arose between you and the United States Steel Corporation over the interpretation of that clause in the contract?

Dr. BAKER. That is correct.

Mr. FELLER. Am I correct in saying that the American Can Co. took the position that under the contract it was entitled both to 7½ percent off the officially announced price plus a further 7½ percent?

Dr. BAKER. I believe the contract read 7½ percent from the lowest net billing price.

Mr. PFELTZ. Or selling schedule.

Dr. BAKER. Or selling schedule.

Mr. FELLER. Yes; and the United States Steel Corporation took the position at that time that you were entitled to 7½ percent off the officially announced price, and your position was that you were entitled to 7½ percent in addition.

Dr. BAKER. I believe that is the way the contract read.

Mr. FELLER. Is that correct, Mr. Hughes?

TESTIMONY OF H. L. HUGHES, VICE PRESIDENT, UNITED STATES STEEL CORPORATION, NEW YORK, N. Y.—Resumed

Mr. HUGHES. We did not so interpret it. We interpreted it that the 7½ percent was off the announced price, the published price.

Mr. FELLER. And the American Can Co. took the position that there was an additional 7½ percent?

Mr. HUGHES. That is correct. It was 7½ percent off the lowest domestic selling price, and we were selling other customers at the published price less 7½ percent.

Mr. FELLER. The contention of the American Can Co. was that since other customers were getting 7½ percent, under the wording, under their interpretation of the contract, they were entitled to 7½ percent off the price at which you were selling to others?

Mr. HUGHES. That is correct.

Mr. FELLER. Mr. Hughes, could you tell us what the result of this controversy was?

Mr. HUGHES. We discussed the matter over a period of, I would think, perhaps 18 months, and finally the American Can Co. filed suit against the Carnegie-Illinois Steel Corporation.

Mr. FELLER. Did that suit ever come to trial?

Mr. HUGHES. No; it was settled out of court.

Mr. FELLER. Do you remember what the payment—was any sum of money paid to the American Can Co.?

Mr. HUGHES. Yes, sir.

Mr. FELLER. Do you remember what the sum was?

Mr. HUGHES. Two and a quarter million dollars.

Mr. FELLER. Dr. Baker, you also were engaged in conversations with your other suppliers of tin plate, such as Bethlehem and Youngstown, with respect to an interpretation of similar clauses in their contracts?

Dr. BAKER. Personally I had nothing to do with that. Mr. Pfeltz was in charge of our tin plate buying, and I think he can answer those questions probably better than I can.

Mr. FELLER. Mr. Pfeltz, you also had some question with your other tin plate suppliers as to the interpretation of their clauses in the contract?

Mr. PFELTZ. We had written new contracts with our suppliers which, in addition to giving us the 7½ percent when we had taken a certain amount of tin plate, entitled us to an additional allowance per base box; after we had taken, we will say a contract called for a million boxes, after we had taken 600,000 we got 25 cents a box on each box over the 600,000, and when we had taken in excess of 1,000,000 boxes we got the 25 cents on the entire amount taken.

Mr. FELLER. Am I correct in understanding that those contracts were cancelled and new contracts negotiated in consideration of the cash payment by your tin plate suppliers to you?

Mr. PFELTZ. The contracts were drawn for 10 years. Under the contract, we will say we would take from a certain tin plate producer a million boxes per year, and receive 25 cents per box. During the 10 years we would have earned two and a half million dollars. The contract was embarrassing to those companies in that it gave us 25 cents no matter what price they named. If they allowed others 25 cents, we got an additional 25. The contracts therefore became embarrassing and they wished to have cancelation. We agreed to cancelation for a consideration.

Mr. FELLER. In consideration then of your cancellation of the obligation to allow you this additional 25 cents per base box, you received a cash sum from each of these tin plate suppliers.

Mr. PFELTZ. That is correct.

Mr. FELLER. Was that sum equivalent to the differential over the whole of the contract period?

Mr. PFELTZ. No; about 30 percent. In other words, we settled for about 30 cents on the dollar.

Mr. FELLER. That is right, instead of getting 25 cents on each base box over the period of the contract you got in a lump sum 30 percent of what you would have gotten.

Mr. PFELTZ. About 7½ cents a box.

Mr. FELLER. May I ask, you received such payments from Bethlehem, Republic, Youngstown, Jones and Laughlin Granite City, did you not?

Mr. PFELTZ. Republic as well.

Mr. FELLER. Yes; Republic. Did you conceive that the sums which you received from Carnegie-Illinois, from Republic, Bethlehem and your other——

Mr. PFELTZ (interposing). Let's dissociate the Carnegie-Illinois from the others, that is an entirely different picture.

Mr. Feller. Let's take them separately, then. Taking the two and a quarter million dollars which you received from the Carnegie-Illinois Steel Corporation, would you have construed that to be a saving which you had made below the officially announced price which your customers might have asked you to pass on to them, if you had such a contract as you have now?

Mr. Pfeltz. I couldn't answer that. I don't know.

Mr. Feller. In net effect you had received a lump sum settlement in consideration for, rather in place of a perhaps larger sum which you would have received piecemeal on each base box over the period of the contract.

Mr. Pfeltz. Well, we are dealing now with a past transaction. We had already filed suit, and the amount of the suit, as I recall it—I may be wrong at this date—was that it was approximately $6,000,000 that we felt Carnegie owed us at that time, nearly $7,000,000.

Mr. Feller. That sum which you received represented a saving to you in the cost of the tin plate which you purchased.

Mr. Pfeltz. Quite naturally.

Mr. Feller. And you did not conceive at that time that it was necessary to pass that on to your customers.

Mr. Pfeltz. That is right.

Mr. O'Connell. Mr. Pfeltz, you mentioned a moment ago the fact that the contract that you had with your various suppliers at that time was proving embarrassing to them. Do I understand that that was because under the terms of the contract regardless of what price they sold tin plate at to other persons, you automatically obtained a price differential?

Mr. Pfeltz. If we purchased the quantity.

Mr. O'Connell. If you purchased the quantity you would in effect get a 25 percent cheaper price than they could sell to anyone else.

Mr. Pfeltz. Unless others bought a l ke quantity.

Mr. O'Connell. I understood that the differential applied regardless of how much quantity someone else bought.

Mr. Pfeltz. I probably didn't make that clear. If John Brown bought a million boxes of plate he could have the same deal as the American Can Co. had; but if he didn't buy it, he wasn't entitled to it. If we bought a million boxes from some producer, a million and five we'll say, we got 25 cents; if someone else bought 750,000 boxes, they would get 25 cents per box on the equivalent of 150,000 boxes. If they could work that up to a million boxes or in excess of a million they would then get the same deal that we had.

Mr. O'Connell. You mean then it must have been embarrassing because the difference in price could not be justified on the basis of a quantity discount?

Mr. Pfeltz. That is right.

Mr. O'Connell. Although quantity had something to do with the discount?

Mr. Pfeltz. Yes.

Representative Reece. Mr. Chairman, I notice the committee has with it today Senator Guffey, of Pennsylvania, who is very much interested in this subject, and I am sure the committee is pleased to have him with them, and I thought would like to have his presence noted in the record.

Mr. FELLER. Mr. Hughes, in further elucidation of the problem contained in the controversy with American Can Co., I should like to have you identify this memorandum dated June 5, 1936, signed by you and addressed to Mr. W. A. Irvin, taken from your files. By the way, it is correct to say Mr. Irvin was then President of the United States Steel Corporation?

Mr. HUGHES. That is correct.

Mr. FELLER. I offer this for the record.

Acting Chairman WILLIAMS. It may be received.

(The letter referred to was marked "Exhibit No. 1404" and is included in the appendix on p. 10989.)

Mr. FELLER. This is a rather lengthy memorandum. Beginning at the bottom of the first page, you state [reading]:

It would seem to leave us with but two courses of action—
1—to stand on our present contract and fight the case in the courts if they—

I assume that means the American Can Co.—

dare to go there.

And you elucidate that further:

2—to revise immediately our contract with them giving them an additional 25¢ per box beyond the 7½% discount on all the plate they take. This would cost us about two and one-half million dollars per year. It would meet the contracts already concluded with Bethlehem, J & L, Republic and Youngstown.

You go on to discuss the disadvantages of the second course, that is to revise your contract by giving an additional 25 cents per box beyond the 7½ percent discount, and you state [reading further from "Exhibit No. 1404"]:

If we should follow the second course, we are further confronted with the possibility that we may be charged with collusion by the F. T. C. or other governmental agency. This is a very serious aspect of the case.

And then you go on and say:

At present we publish a price on tin plate of $5.25 per base box but actually sell that plate at $4.76 per base box, a spread of 49¢ per box, made up of the 7½% contract differential and 10¢ for 10 Pkg. containers.

At present therefore there is 49¢ fiction in our published price and it is to our published price that the can companies generally tie their selling price of cans. This spread is already too much. The addition of another 25¢ discount would increase the fiction in our published price from 49¢ to 74¢ per box. A situation which must inevitably be aired by the can user or somebody else.

It is to be noted that the Corporation is the only tin plate producer on the spot in this connection. The others do not publish tin plate prices in the first instance and their names are not used in contracts for the sale of cans, as is ours.

Mr. Hughes, there are two things in this statement of yours that I should like to have you elucidate a bit. There is, first, your statement that if you did revise your contracts, you might be charged with collusion by the Federal Trade Commission or other governmental agency. May I ask what you meant by that?

Mr. HUGHES. Well, we published a price at that time, say $5, and we gave a discount under the then existing contract of 7½ percent. That was generally known, I imagine, to every can user. What I had in mind there was that if we made an additional 25 cent discount, presumably it would be kept secret and I didn't think that was good business.

Mr. FELLER. The other part of your statement which I should like to ask you about occurs in the succeeding paragraph, in which you talk

about the 49 cent fiction in the published price, which would be increased to 74 cents if the additional 25 cent discount were granted. Did you at that time think that it would be advisable to eliminate the 7½ percent discount altogether, and thereby eliminate this fiction?

Mr. Hughes. I did.

Mr. Feller. And you were in favor, then, of the new contracts negotiated after 1936, eliminating that discount?

Mr. Hughes. That is correct.

Mr. O'Connell. May I ask a question there? I am not entirely clear the answer you gave to Mr. Feller's first question was responsive to the question. I understood the question to be as to what you meant by your reference to the possibility that an additional 25 cent reduction in the price of tin plate to the American Can Co. might cause you some difficulties with the Federal agencies, as being possibly a violation of law. As I understood your answer, it was to the effect that an additional 25 cent reduction in the price to American Can Co., which would presumably be kept secret, would not be good business. Now maybe it wouldn't be good business, but I don't understand that that is responsive to the question which related to the Federal Trade Commission.

Mr. Hughes. I don't think I gave that answer to that particular question. I thought it was a second question.

Mr. Feller. No, I believe you said it in answer to the first question.

Mr. Hughes. May I ask the date of that memorandum?

Mr. Feller. Yes; it was June 5, 1936.

Mr. Hughes. As I recall it, the Robinson-Patman bill about that time was before Congress and we could not of course stand up under that bill with a 25 cent deduction to certain customers and not to others.

Mr. O'Connell. That is what I thought your answer should be but I didn't think that was the answer you gave.

Mr. Hughes. I think perhaps I had that in my mind at that time.

Mr. O'Connell. The question of the secrecy of any price you made—I think that there is no thought about anything illegal about making secret prices as distinguished from secret discounts.

Mr. Hughes. No, sir.

Mr. Feller. Mr. Hughes, from the testimony up to this point, it would appear that prior to 1936, the practice was to sell tin plate to the American Can Co. and other makers of cans, at a price which was in fact less than the officially published price. At that time it was also the practice of the American Can Co. to sell cans at a price which was on the basis of contract, tied to the officially published price.

Now, the fiction which you refer to was the fact that the officially published price was used in the selling of cans, and yet it had no real significance in connection with the selling of tin plate, is that correct?

Mr. Hughes. I imagine the American Can Co. at that time, in making their contracts with can buyers, took into account the fact that the published price of the Carnegie-Illinois Steel Corporation was not the actual price of the tin plate that was sold. Moreover, that fact was generally known to any purchaser of tin plate.

Mr. Feller. That fact I believe on Dr. Baker's testimony became known during the N. R. A. days and was not generally known previously.

Dr. BAKER. Oh, yes; it was known previously—not the exact figure, but the facts.

Mr. FELLER. Was the fact of the request for an additional 25 cents made by you from various of the steel companies generally known?

Dr. BAKER. I don't know about that.

Mr. FELLER. Do you know whether it was generally known that in 1936 you received a cash settlement which was related to this matter of getting an additional 25 cents?

Dr. BAKER. Yes; I understand that is a fact. I had nothing to do with it. I would like to correct this point. With respect to the term fixing the difference between the official price and the net price, it is hardly susceptible of being a term of fixing the difference, because in the first place we took into account in our actual selling prices our net cost of plate. We set up in our contracts that prices were so much for certain sizes of cans, when the official price was so and so, and the official price thereafter was used only to adjust in accordance with differences in that price from year to year, so it wasn't tied in as complete a way as I understood your remark to cover.

Mr. FELLER. I also understood you to say earlier that the 7½ percent was not passed on to the customer directly. Is that correct?

Dr. BAKER. No; it was not passed on, other than what portion of it may have been in the actual prices as paid.

Mr. FELLER. And the sums received as cash settlements in 1936 in the various steel companies were also not passed on.

Dr. BAKER. Well, at that time we reduced our prices straight across the board a flat 8 percent, and you can't divorce receipts and reductions in prices and say that because it wasn't specifically tied to it it wasn't taken into consideration, Mr. Feller.

Mr. FELLER. Do you recall, Dr. Baker, the occasion for the reduction of your prices a flat 8 percent? That was in 1936, I believe, was it not?

Dr. BAKER. Yes; June 18, 1936; upon the passage of the Robinson-Patman Act.

Mr. FELLER. The reduction, then, was to comply with the Robinson-Patman Act.

Dr. BAKER. Yes.

Mr. FELLER. Just to make it clear on the record, is this a correct statement? Previous to the Robinson-Patman Act you had had contracts with various purchasers of cans which provided for varying discounts, and on the passage of the Robinson-Patman Act you canceled all those contracts and entered into a uniform contract with all your purchasers providing for a flat discount, or uniform discounts?

Dr. BAKER. We reduced the base price a flat eight percent to all customers in our contracts.

Mr. FELLER. Was that reduction, that flat 8 percent reduction, intended to compensate your customers for the elimination of the quantity discounts which had previously existed?

Mr. BAKER. No; it was to shorten them up. We deemed that a complete compliance with the requirements of the Robinson-Patman Act which restricted the basis upon which you could give quantity discounts.

Mr. FELLER. Dr. Baker, this morning you stated in answer to a question as to how a purchaser of cans would know what the actual

market price of tin plate was, that a particular purchaser might have no way of knowing unless he gets something from the trade papers, and my question then was: "Not unless the trade papers carried some statement to the effect that it is understood that the market price is such and such," and Dr. Baker said, "Yes, that is the only way we would have of knowing it."

Mr. Pfeltz, I have here a copy of a letter written on the letterhead of the American Can Co., A. R. Pfeltz, Vice-President, dated April 27, 1937, signed "Al," addressed to Mr. Fairless. Did you write that letter?

Mr. PFELTZ. I recall the letter.

Mr. FELLER. I offer this, Mr. Chairman.

Acting Chairman WILLIAMS. It may be received.

(The letter referred to was marked "Exhibit No. 1405," and is included in the appendix on p. 10991.)

Mr. FELLER. Mr. Pfeltz, this letter reads as follows:

Dear Ben:

I am sure that you will not forget nor overlook any of the several matters that I talked with you about last evening, but I thought I would drop you a little note specifically referring to each item, and for good and sufficient reasons refer to them very briefly indeed.

1. Was the delivery of plate to our Island factories.
2. Stopping delivery of tin plate on $4.85 basis as of October 1st.
3. Full weight plates because of panelling and denting troubles which we are having with so many cans.
4. Someone who will coordinate sales of tin plate for the several units of the Steel Corporation.
5. Progress made by other companies producing cold rolled strip tin plate thereby enabling them to sell their products for special purposes for which there would otherwise be no sale.
6. Control over Metal Trade Journals in the publication of prices on tin plate, and the elimination of such comments as are foreign to the subject (from our standpoint).

Mr. Pfeltz, will you explain what you meant by the words in paragraph No. 6?

Mr. PFELTZ. It is pretty hard to remember exactly what that conversation was because I didn't attach a great deal of importance to it at the time other than the fact that the trade journals would be inclined to call someone, we'll say in Carnegie's office in Pittsburgh, who was not qualified to pass on the subjects and they would give information and it would be published which was wrong, which did did not reflect facts and which would cause a lot of our customers becoming rather concerned as to what was what. All we asked for there was definite concrete facts regarding the price structure.

Mr. FELLER. Do you mean that after the trade journals had published some erroneous information you would then give them the correct information?

Mr. PFELTZ. Substantially that; yes.

Mr. FELLER. Do you think the words, "Control over Metal Trade Journals in the publication of prices——

Mr. PFELTZ (interposing). I think that was very badly worded.

Mr. FELLER. It is your word, Mr. Pfeltz.

Mr. PFELTZ. I admitted it was badly worded.

Mr. FELLER. You then go on to speak about the "Elimination of such comments as are foreign to the subject (from our standpoint)."

Mr. PFELTZ. Well, for instance, some comment about the price

being extremely weak at a time of the year when our customers were taking a great many cans in certain parts of the country and in other parts they would not have reached the point where they were packing, and that would disturb them, and they would not give us the outlet for cans, thinking that there would be a lower price, we would be congested in our warehouses, both with cans and probably would have difficulty in taking care of the trade when the time came.

Mr. Feller. Would such a comment as you have just mentioned be foreign from the standpoint of the purchaser of cans?

Mr. Pfeltz. What was that?

Mr. Feller. Would such a comment as you have just referred to be one that you would consider to be foreign to the subject from the customer's standpoint? You spoke about "the elimination of comments as are foreign to the subject (from our standpoint)."

Mr. Pfeltz. Yes.

Mr. Feller. That the customer might be very well interested in such news?

Mr. Pfeltz. Not if he were unable to get cans when he wanted them. If we can't supply our customers with cans ahead of time we are not equipped to take care of the peak when the peak is on. We must fill his warehouses, we must fill our own and operate our own lines day and night. If you disturb them at the wrong time of the year it certainly doesn't induce them to take cans.

Mr. Feller. Don't you think that such a conveying of correct information to your customer could be sufficiently accomplished by telling the trade journals what the real facts were after the publication?

Mr. Pfeltz. I wouldn't know that.

Mr. Feller. You have spoken of elimination of such comments. Just what did you have in mind by eliminating a comment such as you just described to us?

Mr. Pfeltz. If the trade papers don't get this information and it doesn't come from, as a rule, people in authority who know what the general situation is, if you have had any occasion to deal with the trade papers you know how they pick a thing off and make a big story out of nothing, and that is exactly what they had been doing time and again.

Mr. Feller. And what did you think should be done about that?

Mr. Pfeltz. I know what I should have done about it.

Mr. Feller. What did you suggest to Mr. Fairless in this conversation should be done about it?

Mr. Pfeltz. To simply instruct these boys to be a little careful as to how they handed out information.

Mr. Feller. You speak about the "elimination of such comments as are foreign to the subject (from our standpoint)." What sort of comment would be foreign from your standpoint and not from somebody else's?

Mr. Pfeltz. I can't answer that.

Mr. Feller. Specifically in drafting or writing this letter you pointed out that you were interested in comments foreign from your standpoint.

Mr. Pfeltz. Yes; but I do not recall what I had in mind at this particular time.

Mr. Feller. Do you recall this conversation, Mr. Fairless?

Mr. FAIRLESS. I recall the conversation and I think Mr. Pfeltz has explained it as I recall it. The trade papers unfortunately are looking for news, and I say unfortunately advisedly, and aren't always too careful as to the source of that news, and many times print statements that are not facts. In all fairness to the trade papers, after they do make a mistake or print a misstatement they are always ready to correct it, but many times the injury has already happened before the correction could be made effective, and as I recall our conversation that evening, it had to do with the subject Mr. Pfeltz has discussed. The trade papers getting in touch with some of our boys down the line and asking their opinion of some particular condition, either in the tin-plate industry or in the steel industry and then writing an article, is disturbing and isn't many times based on facts. That is my recollection of the conversation with respect to this particular item. I recall very distinctly that there was much more time spent in discussion of some of these other items than there was of this particular one.

Mr. HENDERSON. Mr. Feller, may I ask a question?

Mr. Fairless, the language used in this paragraph 6 is pretty specific and seems to suggest that you people have some control over the metal trade journals. Do you want to comment on that?

Mr. FAIRLESS. We have no control, Mr. Henderson, at all. The trade papers cooperate with us and it is their policy normally to—I would say it is their policy to print facts and to come to us to get facts and it is our desire to cooperate with them, because many of our customers depend upon the trade papers for definite information in respect to their particular commodities or the steel business in general.

Mr. HENDERSON. You have no financial interest in any of the metal trade journals?

Mr. FAIRLESS. No, sir; no, sir.

Mr. FELLER. Mr. Pfeltz, as Dr. Baker has told us earlier, it is true, is it not, that a purchaser of cans would be very much interested in finding out whether or not the price of tin plate was weak, to use your words.

Mr. Pfeltz. Yes.

Mr. FELLER. And the only source on which he could depend would be the trade journal.

Mr. PFELTZ. Yes.

Mr. FELLER. You would say then it is of great importance to the can purchaser that he have access to whatever facts there are.

Mr. PFELTZ. If they are facts.

Mr. FELLER. Do you think he is not entitled to have access to rumors, to rumors that are current?

Mr. PFELTZ. I don't know that I would care to answer that.

Mr. FELLER. We were discussing earlier the question of the extent to which the American Can Co. received concessions which were or were not passed on to the customers. Reference has been made from time to time to the 1938 period in which concessions which had been received were passed on. I should like to have the record speak clearly on that subject, and I shall offer for the record the announcement which was sent out by the American Can Co. on April 14, 1938, to its various customers. Will you identify that, Dr. Baker?

Dr. Baker. Yes.

Mr. Feller. I offer that for the record.

Acting Chairman Williams. It has been identified, has it?

Dr. Baker. It has been.

Acting Chairman Williams. It may be received.

(The accouncement referred to was marked "Exhibit No. 1406" and is included in the appendix on p. 10991.)

Mr. Feller. As I understand it, Dr. Baker, the mechanics by which the transaction took place in 1938 were something of this kind: In April you issued an announcement that the actual market price of tin plate was not the same as the official price and you stated to your customers that at the end of the year you would make an adjustment to the actual market price. Is that correct?

Dr. Baker. That is correct.

Mr. Feller. And when did you make that adjustment?

Dr. Baker. As soon as we got our figures ready after the end of the year, about 30 days after, I would estimate after the end of the year.

Mr. Feller. And then you sent each of your customers a check which represented the amounts of the differences between the actual price paid and the officially announced price?

Dr. Baker. Either a check or credited their account.

Mr. Feller. Now, just to complete the record on this point, Mr. Fairless, your company also, toward the end of the year, announced a reduction in the official price, did it not, at the end of the year 1938?

Mr. Fairless. The equivalent of that; yes.

Mr. Feller. And that was made retroactive to the first of the year.

Mr. Fairless. Yes; all shipments during the year.

Mr. O'Connell. Dr. Baker, as a practical matter could that reduction which you made available at the end of the year to your customers have been passed on to the ultimate consumers of the products which ultimately found their way into the cans?

Dr. Baker. Only through our canner customers.

Mr. O'Connell. As a practical matter, I take it, the cans that you sold during 1938 were probably resold and distributed to the ultimate consumers before your customers had any idea as to what its ultimate cost was going to be.

Dr. Baker. We gave them an estimate as soon as we could.

Mr. O'Connell. I am not attempting to indicate that there would have been any practical way of doing it. I was just attempting to illustrate the fact that, as a practical matter——

Mr. Pfeltz (interposing). You mean if they wished to reduce their price of canned goods they could, in view of this reduction which they were going to get from the American Can.

Mr. O'Connell. But they didn't know how much reduction they were going to get.

Mr. Pfeltz. They didn't know exactly what it would amount to, but the canning industry is in general in such bad shape that they would be very glad to pocket that money for Christmas.

Mr. O'Connell. I have no doubt of that.

Mr. Feller. Mr. Pfeltz, on the books of the American Can Co. you maintain, do you not, various accounts with your sellers of tin plate. Is that correct? Do you, among those accounts, have some accounts which do not reveal the names of the steel companies?

Mr. PFELTZ. I am not an accountant, Mr. Feller, and I don't know what our books show. Maybe Dr. Baker does, but I can assure you I do not.

Dr. BAKER. I don't know how there would be any basis for such a question. It would be news to me. I am not an accountant, either.

Mr. PFELTZ. Just what do you mean? What are you driving at?

Mr. FELLER. Am I correct in saying that you have two accounts on your books with steel companies which are called, on your books, respectively, secretary's account No. 1 and secretary's account No. 2?

Mr. PFELTZ. Your Mr. Ritchin located those accounts when he was in New York a couple of months ago, and told me about them, and that was the first time I had heard of them, and I don't think Dr. Baker has heard of them even now. They mean nothing today. They did mean something 25 years ago.

Mr. FELLER. What did they mean then?

Mr. PFELTZ. I don't know, but both parties who knew all about them have since died.

Mr. FELLER. Mr. Ritchin, for the record, is one of the members of the staff of the Department of Justice.

Mr. PFELTZ. Mr. Ritchin got the story from the comptroller's assistant, Mr. Madge, and I think he could tell you better than I could just what they mean.

Mr. FELLER. Perhaps we ought to have Mr. Ritchin sworn, and he might, while sitting here at the table, tell us what Mr. Madge told him.

Acting Chairman WILLIAMS. Do you solemnly swear the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. RITCHIN. I do.

TESTIMONY OF HYMAN B. RITCHIN, DEPARTMENT OF JUSTICE, WASHINGTON, D. C.

TIN PLATE PRICES

Mr. FELLER. State your name for the reporter, please.

Mr. RITCHIN. Hyman B. Ritchin.

Mr. FELLER. You are connected with the Department of Justice?

Mr. RITCHIN. Yes, a member of the staff of the Department of Justice.

Mr. FELLER. You visited, some months ago, the offices of the American Can Co.?

Mr. RITCHIN. I did. I visited the office of the American Can Co. on two occasions. The first occasion was the latter part of August, and the other occasion was at the beginning of September.

Mr. FELLER. And did you examine the books of account of the American Can Co.?

Mr. RITCHIN. Yes; with the assistance of Mr. Madge, who is the assistant comptroller of the American Can Co., I examined the books of the company relative to the payments made by the Carnegie-Illinois Steel Co. to the American Can Co. On the books of the American Can Co. in the general ledger are set up various accounts. These accounts are with the steel companies with which the American Can Co. has business connections. The names were listed—Republic Steel Corporation and other steel companies were listed by

their correct names, with the exception of the Carnegie-Illinois Steel Co. and the Bethlehem Steel Corporation. The Carnegie-Illinois Steel Corporation was listed as secretary No. 1; the Bethlehem Steel Corporation was listed as secretary No. 2.

I asked Mr. Madge for an explanation of these two terms, and he said secretary No. 1 started in the early part of 1900 when, I think, a Mr. Wheeler, who was then comptroller, set it up in that fashion. It has continued to date. He explained it as a matter of custom; that he just didn't get around to changing the name.

Mr. FELLER. Mr. Chairman, in 1912, a proceeding was brought by the Department of Justice against the American Can Co. under the antitrust laws. The suit was in the District Court of Maryland and was decided by the District Court in 1916. In the citation of the case, entitled "*United States* v. *American Can Company*, 230 Federal Reporter 659," occurs the following statement at pages 884 and 885 of the Reporter:

> The preferential rebates received by the Defendant, i. e. American Can Company, from the Tin Plate Company, i. e. American Sheet and Tin Plate Company, a subsidiary of the Steel Corporation, in the period from 1902 to 1913, amounted to the large sum of nine million dollars. The answers of both the Defendant and the Tin Plate Company claim that these transactions were normal, and the allowances were those which would naturally be made to an exceedingly large consumer. The facts seem to show that the parties themselves did not so regard it. Tin plate was billed to the Defendant at the fixed list price and the rebate was subsequently paid. Great precautions were taken by the Defendant to conceal the facts from most of its bookkeepers and even from some of its officers. The rebates, when obtained, were entered upon the books of the Defendant in such a way as to conceal their origin.

In the record of the trial of that case, a Mr. Williams, an accountant, testified as follows:

> Q. Mr. Williams, you know of rebates being received from the American Tin Plate and the American Sheet and Tin Plate Companies?
> A. I knew of a concession being made by the American Tin Plate Company.
> Q. In what form?
> A. In the form of a monthly remittance, monthly settlement.
> Q. Who originated the method of keeping that account?
> A. If I remember correctly, I did.
> Q. Where did you put it?
> A. I think I put it in an account called "Secretary's Account."
> Q. As far as you knew, who knew of the existence of that special concession and its receipt by the Can Company?
> A. I only knew of one other person in the company who had knowledge of it besides myself.
> Q. That was who?
> A. Mr. F. S. Wheeler.

Now Mr. Pfeltz, in view of your statement that you were not aware of this practice until it was called to your attention by Mr. Ritchin, I don't know if you can enlighten us further with respect to the reason for its continuance. Would you say——

Mr. PFELTZ (interposing). I have no knowledge of it, Mr. Feller. I didn't know it was there, that it was handled that way, so I can't tell you why it was handled that way.

Mr. FELLER. Can you tell us, if you recall, when you began purchasing tin plate from the Bethlehem Steel Co.?

Mr. PFELTZ. I should say approximately 20 years ago.

Mr. FELLER. Approximately 20 years ago.

Mr. PFELTZ. About 18, I should think.

Mr. FELLER. 1918?

Mr. PFELTZ. No, about 1921, about 18 years ago.

Mr. FELLER. Oh, about 1921. Now as Mr. Ritchin has testified, on the books of your company the account with the Bethlehem Steel Corporation is entitled "secretary No. 2" and you began purchasing tin plate from the Bethlehem Steel Co. some 5 years after the decision of the case from the report of which I have just read, and you don't, I presume, have any knowedge as to why it is that the Bethlehem Steel account is kept in that way.

Mr. PFELTZ. I have no knowledge as to why we didn't have seven or eight more "secretaries." There is no difference so far as I recall it.

(Senator King assumed the Chair.)

Mr. FELLER. Mr. Pfeltz, I hand you a letter dated March 24, 1938, signed by you, written to Dr. Baker, taken from your files. Will you identify it, please?

Mr. PFELTZ. I recognize it.

Mr. FELLER. I offer the letter for the record.

Acting Chairman KING. It may be received.

(The letter referred to was marked "Exhibit No. 1407" and is included in the appendix on p. 10992.)

Mr. FELLER. Mr. Chairman, the first two pages of this letter relate to a matter involved between the American Can Co. and the Inland Steel Co. Toward the end of the second page occurs the following paragraph:

The same situation which confronted them in 1937——

Acting Chairman KING (interposing). What is the date of that, please?

Mr. FELLER. It is dated March 24, 1938. I take it that the "them," from the context, refers to the Inland Steel Co. [Reading further from "Exhibit No. 1407":]

The same situation which confronted them in 1937 again confronted them in 1938, and regardless as to the promise made by Mr. Grace at the time the conference was held by leading Officials of all the Steel Companies regarding the price for tin plate for 1938, Bethlehem again named a price below the official, and as Inland was, like others, badly in need of tonnage, they found it necessary to meet the situation.

Mr. Pfeltz, referring to the statement which you make in this letter—

at the time the conference was held by leading Officials of all the Steel Companies regarding the price for tin plate for 1938—

do you recall on the basis of what information you made that statement?

Mr. PFELTZ. It was simply information which I would naturally gather in my official position with the American Can Co. It may come from any source. Whenever there is a meeting of steel people, the Iron and Steel Institute, it is common knowledge, everyone knows that the steel fellows are in town. Now where I got that information, I couldn't tell you. It may have come from someone on the outside.

Acting Chairman KING. Did you participate in any meeting?

Mr. PFELTZ. No. We participate in no steel meetings.

Acting Chairman KING. Do you know that one was held?

Mr. PFELTZ. Only hearsay.

Mr. FELLER. Have you at other times been informed by your assistants or by others that there were meetings of the steel producers regarding the price of tin plate in other years?

Mr. PFELTZ. I have known of meetings, but I have not known of any meetings regarding the price of tin plate.

Mr. FELLER. How did you know that Mr. Grace had at that time made a promise?

Mr. PFELTZ. I heard it.

Mr. FELLER. I take it that what you heard was that Mr. Grace had made a promise that Bethlehem would not name a price below the official price.

Mr. PFELTZ. That is what I heard.

Acting Chairman KING. From whom?

Mr. PFELTZ. I couldn't say that. I don't recall.

Acting Chairman KING. Any official of the Bethlehem Co.?

Mr. PFELTZ. No.

Acting Chairman KING. Any official of your own company?

Mr. PFELTZ. No.

Mr. HENDERSON. Mr. Pfeltz, this was a matter which affected the price which you were going to pay for a tremendous amount of tonnage, was it not?

Mr. PFELTZ. No.

Mr. HENDERSON. You mean if such a meeting took place at which they were going to determine the price that you would pay, wouldn't you question whether they were really determining something as to your profit and loss and the operation of your business?

Mr. PFELTZ. I wouldn't know that, Mr. Henderson.

Mr. HENDERSON. Wouldn't you be interested as to whether it was high or low?

Mr. PFELTZ. Naturally, we have to protect our customers, and if we can ascertain that the price which is being named generally does not reflect the market, then we are very foolish in not trying to get that same price for our customers. In other words, we felt that the large steel companies should protect the largest buyer of tin plate and give them as good a price as any tin plate is being sold for.

Mr. HENDERSON. Let me ask you this: Do I understand that if there was such a meeting and the price they fixed was what you considered fair, you would have no further interest in the matter?

Mr. PFELTZ. Say that again, Mr. Henderson.

Mr. HENDERSON. I gather from your responses that if the producers of tin plate did meet and fix the price, if it was fair you would have no further interest in the matter.

Mr. PFELTZ. Well, we would have no further interest if the price was fair and reflected the market—that is, reflected the price at which tin plate was being sold. If tin plate was being sold at a lower price we certainly wanted that lower price.

Mr. HENDERSON. And you want the committee to understand that on something that was as important as this, you can't remember who told you that particular piece of information?

Mr. PFELTZ. No; because there was nothing fixed at the time regarding the price for the year.

Mr. FELLER. Mr. Fairless, do you recall this occasion?

Mr. FAIRLESS. What occasion?

Mr. FELLER. The occasion of a conference held by leading officials of all the steel companies regarding the price of tin plate for 1938?

Mr. FAIRLESS. No, sir.

Mr. FELLER. Mr. Chairman, I have no further questions with regard to tin plate.

Mr. FAIRLESS. I would like to interject something here so as not to leave this situation in this shape in respect to this committee, with your permission.

Acting Chairman KING. Proceed.

Mr. FAIRLESS. I became president of the United States Steel Corporation January 1, 1938. My appointment had been made just prior to that. The first negotiation that I entered into in respect to the price of tin plate was for the current year, and I wish to give this committee the facts in connection with that transaction.

After several meetings, I don't know just how many but certainly three or more, with Dr. Baker and Mr. Pfeltz, in respect to what the price of tin plate should be for the current year 1939——

Mr. PFELTZ (interposing). For '38. You were still with Carnegie.

Mr. FAIRLESS. No, I am talking about negotiations in 1938. I could go back to 1937 when I was with Carnegie, but I am talking about my first participation as president of the United States Steel Corporation.

Acting Chairman KING. That would be in 1938?

Mr. FAIRLESS. That is right.

Now keep in mind what happened to the price of tin plate. The price announced around December of the previous year, in 1937, the price for 1938 was officially announced by Carnegie-Illinois as $5.35. Competitive conditions during the year developed the fact that tin plate was selling at lower than that price, and after careful investigation, it was developed that tin plate had been sold as much as 25 cents lower than that price, and that became the official price for the year 1938. Even though the announced price was $5.35, the adjustment brought it back to $5.10.

So we came into the negotiations for the 1939 price with a $5.10 price for tin plate as against the announced price of $5.35. After several conferences, as I have stated, at least three or more, in respect to what the price might be, with Dr. Baker, Mr. Hughes, Mr. Pfeltz, and myself present I believe in each of them, discussing all of the factors having to do with the price of tin plate, market conditions, costs, our best thoughts in respect to what the price of pig tin might be for this year and the possibilities of labor costs, the possibilities of infringements in respect to other types of containers, which always comes into our discussions, we finally reached the last day of the negotiations—and I am only bringing this up to disabuse the mind of anyone on this committee as to any group meetings setting the price of tin plate.

Now this is the last meeting. Mr. Hughes and I went to Dr. Baker's office and Dr. Baker said, "Well, what conclusion have you come to?"

I said, "Well, Doctor, with all the factors at our command, and considering our previous discussions, it is my opinion that we should continue for 1939 the present price, which is $5.10."

Dr. Baker said, "I don't agree with that," and he gave me many reasons—many reasons—and we had a long discussion there, and I said, finally, "Well, Doctor, what is your idea of the price?"

And as I remember, Doctor, your price was $4.90, that was what you had in mind at that time, or perhaps $4.95; $4.90. And, finally, after a long discussion lasting several hours, we decided and set the price right there for the year 1939 at $5. So the price of tin plate was set then, and not by any meeting of the tin-plate industry.

Mr. HENDERSON. To make the matter clear, did you have any negotiations when you were with Carnegie having to do with what the price of tin would be?

Mr. FAIRLESS. No; Mr. Henderson. Naturally an important announcement of price affecting such an important product as tin plate, and because it covers such a period of time contractually, 9 months, which really, as I stated earlier in our hearing here today, is 12 months—everybody in the tin plate business is interested in our announced price of tin plate. The investigation has brought out here that contracts are made between buyers and sellers, and I am sure that those contractual arrangements are not only between the American Can Co. and other producers of tin plate, but between other can companies and other producers of tin plate. Obviously, everybody is very vitally interested in our officially announced price of tin plate.

Mr. HENDERSON. But my question was, did you participate when you were with Carnegie?

Mr. FAIRLESS. I answered it by saying no, but I did want to enlarge upon it because I think it is due this committee to have this information; have the background of it, rather.

Naturally, with this announcement carrying so much weight and so important in dealing with millions of dollars of sales, along about November, or thereabouts, I don't believe I ever meet a manufacturer of tin plate but what he will say, "Ben, have you reached a decision yet in your negotiations with the Can Company with respect to the price of tin plate?"

And if we haven't, my answer is "No." If we have, of course it is announced.

So I don't want to be in the position of attempting to leave the impression that no manufacturer of tin plate ever asked me or discusses with me what the price of tin plate is.

Mr. HENDERSON. But you do want the committee to understand, as far as you are personally concerned, that you never had a group meeting with other manufacturers of tin plate.

Mr. FAIRLESS. To set the price of tin plate?

Mr. HENDERSON. Yes.

Mr. FAIRLESS. Definitely.

Mr. HENDERSON. I wanted to make the opportunity for you to have the record clear on that.

May I then ask you this: How do you suppose that kind of impression got abroad to such a positive extent it would come to Mr. Pfeltz's attention?

Mr. FAIRLESS. I can't answer that. I know of lots of rumors. I have heard plenty.

Mr. HENDERSON. Mr. Pfeltz, have you any idea as to how such a rumor would get to such a positive state that you could embody

it in a letter to Dr. Baker? Is it your impression that the people with whom you deal do get together and fix the price of tin plate?

Mr. FAIRLESS. What is that again?

Mr. HENDERSON. Is it your impression that the people from whom you buy tin plate get together as a group and fix the price at which you will buy tin plate?

Mr. PFELTZ. No. So far as I know, Mr. Fairless fixes the price of tin plate, and has fixed it as long as he has been connected with Carnegie-Illinois.

Mr. HENDERSON. And before Mr. Fairless?

Mr. PFELTZ. Before that Mr. Irvin or Mr. Farrell fixed it, because our price has been based on the official price of Carnegie or American Sheet. We weren't interested in what other companies did about that price. They didn't publish any price. Carnegie or American Sheet published the price. They were the ones to whom we looked.

In 1937 we were not sold on the price that was going to be made. We have got something to do for our customers every year. We must buy our tin plate as cheaply as we think it should be bought. Mr. Fairless and I differed, in fact Mr. Fairless and Mr. Hughes differed with Dr. Baker and with me both as to what that price should be. I admit that at the time we had a rising tin market. I thought it was coming down and they thought possibly it would go up, and they had to name the price for the entire year and therefore named a price which later proved to be unsound and had to be reduced.

Mr. O'CONNELL. Mr. Fairless, from my standpoint I am not at all sure that you can enlighten me at all, but there is one hiatus in this situation which isn't entirely satisfactory from my standpoint and it may be that you have no information about it. As I understand it we have a situation in which all of the manufacturers of tin plate in their contracts with the people to whom they sell tin plate agree over a period of years to in effect abdicate their price-making function to the Carnegie-Illinois Steel Corporation.

Mr. FAIRLESS. No, I didn't say that.

Mr. O'CONNELL. No, I say that is what I understand the situation to be. I don't think you expressed it just that way.

Mr. FAIRLESS. You understand it wrongly because that isn't the case.

Mr. O'CONNELL. It is the fact, is it not, that in the long-term contracts or in the contracts that are made between the other steel suppliers and the can companies the agreement is to the effect that they will sell tin plate at a price which is either the same as or based on the posted price of the Carnegie-Illinois Steel Corporation.

Mr. FAIRLESS. I can't pass judgment or tell you the details of other producers' contracts.

Mr. O'CONNELL. You just finished saying 5 minutes ago that that was what you understood it to be.

Mr. FAIRLESS. That is what I understood.

Mr. O'CONNELL. That is what I understand it to be——

Mr. FAIRLESS (interposing). Also I understand there is much tin plate sold that is not covered by long-term contracts.

Mr. O'CONNELL. That may be so.

Mr. FAIRLESS. It is so.

Mr. O'CONNELL. But to the extent that the other suppliers of tin plate agree to sell tin plate to their people at the price which is fixed by the Carnegie-Illinois Steel Corporation——

Mr. FAIRLESS (interposing). I don't like the word "fixed."

Mr. O'CONNELL. Determined or posted.

Dr. BAKER. As low as.

Mr. FAIRLESS. Announced. We don't fix price. We announce it.

Mr. O'CONNELL. I take it the word "fixed" has a certain connotation and I shouldn't have used it. To the extent that the other suppliers of tin plate contracted to use the price posted by the Carnegie-Illinois Steel Corporation they have in effect so far as that portion of their business is concerned, given over their function of price to the Carnegie-Illinois Steel. Isn't that so?

Mr. FAIRLESS. I don't know. It all depends on the basis. They might write a contract based on the officially announced price of Carnegie-Illinois less something?

Mr. O'CONNELL. We are agreed as I understand it that there are a substantial number of contracts. Limiting it to the contracts of the American Can Co., I understand the testimony to be that in general your contracts with all suppliers of tin plate provide for a price which is the price posted by Carnegie-Illinois Steel Corporation. Isn't that correct?

Mr. PFELTZ. Yes, that is substantially correct.

Mr. O'CONNELL. In that area, at least, your suppliers are content to take whatever price is fixed by the Carnegie-Illinois Steel Corporation. Is that a fair statement as regards those particular contracts?

Mr. PFELTZ. They may make a lower price, they could make a lower price.

Mr. O'CONNELL. But the point I mention is that they did not. You were testifying that they have not and that those contracts provide for a price which is the same as that fixed——

Mr. PFELTZ (interposing). They have not made a lower price to us.

Mr. O'CONNELL. That is all I am talking about, the contracts they have with your company.

Mr. PFELTZ. They have not made a lower price than Carnegie-Illinois have made to us.

Mr. O'CONNELL. They have made no price at the time they make the contract. They agree to take the price fixed by Carnegie-Illinois.

Mr. PFELTZ. That is right, the officially named or published price.

Mr. O'CONNELL. Within that area I take it that we may assume these companies are content to take whatever price Carnegie-Illinois posts. Is that correct?

Mr. FAIRLESS. Yes.

Mr. O'CONNELL. The difficulty I have is in understanding why in that situation these suppliers of steel or tin plate are not more interested in influencing or in getting Carnegie-Illinois to fix or to post a price satisfactory to them than would be indicated by your explanation of the way it actually works. As I say you may not be able to enlighten me at all.

Mr. FAIRLESS. I am sorry I can't. It might be that they would be very much interested.

Mr. O'CONNELL. I should think they would be.

Mr. FAIRLESS. But I am only telling this committee how the price is actually arrived at, and I don't think there is any particular mystery about it when you stop to consider that the American Can Co. is the largest purchaser of tin plate and the Carnegie-Illinois Steel Corporation is the largest producer of tin plate, with tin-plate facilities located where they can serve the various plants of the American Can Co. very satisfactorily. I don't believe that a more fair price for tin plate could be hoped to be arrived at than through the process of negotiations between the largest purchaser of a product and the largest producer of a product; in other words, to arrive at a fair price, and I know, I can speak from—I can't speak officially now because I haven't always been associated with the United States Steel Corporation, I have been associated with smaller companies, and in one of my earlier associations I was in the tin-plate business, and I was always very happy to have the price of tin plate negotiated for by the United States Steel Corporation with the American Can Co. That seemed to me, my reaction to that was, it was a perfectly logical turn of business.

Mr. O'CONNELL. You think that it would be entirely reasonable for the other suppliers of tin plate to take the view that Carnegie-Illinois being the largest producer in its field and the American Can Co. the largest manufacturer of cans, they can get as good a price as they could if they did it themselves.

Mr. FAIRLESS. I think the largest purchaser of any product certainly is entitled to the lowest possible price that that product can be bought for. I start with that.

Mr. O'CONNELL. True.

Mr. FAIRLESS. And I think that the largest producer of any product is in the position to make certainly as low costs as anybody who manufactures that product. So it seems to me.

Mr. O'CONNELL. As low a cost?

Mr. FAIRLESS. Cost as low, at least as low, so it seems to me that the result of negotiations between buyer and seller of that kind should result in a very fair price for a product. And that is my impression of the tin-plate price. Now, we do, of course, as Dr. Baker and Mr. Pfeltz have stated, run into some unusual conditions during the year, and '37 is a good example. When that five thirty-five price was negotiated I will admit that Dr. Baker and Mr. Pfeltz weren't happy. They thought that price was too high, but as we projected our costs and as we saw the trend, the then trend, of the price of pig tin, which is a very important factor, with the unsettled conditions labor was in, and with the steady advancement in the prices of raw materials, we felt that we couldn't in safety and in protection to ourselves name a lower price. What actually happened was that the price of pig tin went off during the year, and, of course, business receded too, as has been already brought out here, so I will admit that Dr. Baker's ideas and Mr. Pfeltz's in respect to tin-plate price at that particular time were better than mine. The facts, however, are that when the year was over the price was five ten, it wasn't five thirty-five.

Mr. REYNDERS. May I ask whether or not in the other producers' adoption of price that you happened to have negotiated with the American Can Co. was that a voluntary act on their part that you had nothing to do with? It is up to them either to accept that as their price or not as they see fit.

Mr. FAIRLESS. That is up to them.

Mr. HENDERSON. Does it frequently happen that in effect what you are doing is holding an umbrella over the rest of the producers?

Mr. PFELTZ. Well, Mr. Henderson, there are many occasions——

Mr. HENDERSON (interposing). I addressed that to Mr. Fairless. I will be glad to have you speak also.

Mr. FAIRLESS. What is the question?

Mr. HENDERSON. Does it sometimes happen that you find by your posting of a price and adhering to it you are in effect holding an umbrella over other manufacturers of tin plate?

Mr. FAIRLESS. Well, you would hold the umbrella until you reached the point where you know you are holding it, and then you do something about it.

Mr. HENDERSON. I gather from that, that it does sometimes happen.

Mr. FAIRLESS. It has happened.

Mr. HENDERSON. Do you want to respond to that?

Acting Chairman KING. Let me ask a question there. Does that mean that the producer of tin plate may not charge a lower or higher price than that which you charge?

Mr. FAIRLESS. I believe, Mr. Chairman, that our officially announced price certainly fixes the ceiling, unless you would run into some unusual conditions. I can't conceive of that, except just citing the export price of tin plate today, it is higher than the domestic price, not because we set it there but because we are offered, we have offers for tin plate, at substantially higher prices than our domestic prices today. But that is because of a very unusual situation, of course.

Acting Chairman KING. By and large, the prices which you fix, or which you stated for tin plate, are they remunerative—were they remunerative to the company? Did they bring excess profits, reasonable profits, or were there losses?

Mr. FAIRLESS. No; not losses. There have been periods, I assume, that tin plate has been certainly not profitable, but it isn't an unprofitable product today. Neither is it an unreasonably high profit product. We have a terrific investment in the tin-plate business—terrific!

Acting Chairman KING. Which would be independent of the investment in your other activities?

Mr. FAIRLESS. I mention that at this time because of the changes in the method of manufacturing tin plate which have come into our industry in the last, well, say 5 years, where we have gone from the old method of the hot—what we called the hot pack plate, made on the old-fashioned mills, to a cold reduced product which is superior in quality and lower in cost from a manufacturing standpoint, but the investment to make this product is many times more than by the old, and this industry has just gone through the spending of—I don't recall the figure; certainly several hundred million dollars.

Acting Chairman KING. Just for tin plate?

Mr. FAIRLESS. For cold reduced tin plate, yes; and that in the last 5 or 6 years.

Acting Chairman KING. I assume there is considerable obsolescence in your machinery and a great deal of machinery which is rendered obsolete by technological and other developments.

Mr. FAIRLESS. Yes, sir; yes, sir.

Acting Chairman KING. Have you any figures indicating the value of the property, plants, and so forth, which have been rendered obsolete during the past few years by reason of changes in markets, changes in conditions, technological developments, et cetera?

Mr. FAIRLESS. I can give you, not the figures of investment; I can give a figure that has been given to me, of a write-off in '35 of $270,000,000. I am not giving that as a definite figure, but I do want to cite this, that when we built our new plant in the Pittsburgh district called the Irvin Works, which is dedicated to the manufacture of sheets and tin plate, we contemplated the closing down, and actually did close down, six individual plants about when that plant went into operation. Now some of those plants were temporarily closed because of business conditions, but our picture, when completed—by our picture I mean the completion of the Irvin Works—contemplated the permanent closing down of those six plants for the reasons that you have just indicated, because of technological development within the industry.

It so happens, however, that due to this great demand at present for tin plate, and because of the fact that export tin plate can be furnished by the hot roll method, because that generally is the type of tin plate they had been receiving abroad, and because the price is better, we have put back into operation four of those six plants that we contemplated closing. But there again, that is of a temporary nature.

Here is the figure that you asked for [reading]:

The reserve for obsolescence and depreciation was increased to the extent of $270,000,000 in 1935, principally because of improvements in manufacturing methods which made existing facilities of older design less valuable.

Mr. O'CONNELL. That is for the corporation generally; that wouldn't apply only to tin plate? It is the whole?

Mr. FAIRLESS. No; but it so happens that tin plate was the biggest factor product-wise.

Mr. O'CONNELL. Along that same line, would you know whether your operations generally in the tin plate field in recent years have been more or less profitable than other lines to your company? Would they be more or would they be less?

Mr. FAIRLESS. They would certainly be more profitable than some lines, because some lines would show no profit.

Mr. O'CONNELL. In recent years has it been one of the most profitable, take it over the period of the past 5 or 6 years?

Mr. FAIRLESS. I will say this in answer to that question, that tin plate has been one of the most profitable lines during the depression, and if you follow the rate of operations of the steel industry you will find that tin plate has been one of the most consistent performers during the depression.

Mr. O'CONNELL. Yes; I understood that.

Mr. FAIRLESS. In other words, the demand for tin plate has not fallen off to the extent of other products, and to that extent it has been more profitable.

Acting Chairman KING. Mr. Pfeltz, did you desire to continue your comment?

Mr. PFELTZ. I simply want to reply to Mr. Henderson about the price of Carnegie. There are many times—in fact there is hardly a

year but that various steel people come to me and say that they hope the price is going to be so and so, and not the price that is eventually named by Carnegie. They are hoping for a higher price.

Mr. Henderson. It often happens, does it not, that after the price has been announced, other producers do suggest that they can deliver plate to you cheaper than the published price. Isn't that correct?

Mr. Pfeltz. I think you will have to repeat that again. I didn't understand it.

Mr. Henderson. Doesn't it happen from time to time that after Carnegie has posted the price, other producers suggest to you that they can deliver plate at less than the posted price?

Mr. Pfeltz. No; that is not a fact.

Mr. Henderson. Not to your company?

Mr. Pfeltz. Not to our company.

Mr. Henderson. Mr. Chairman, I want to ask Mr. Hughes along the line of the sentence quoted in the letter from Mr. Pfeltz to Dr. Baker.[1] Did you participate in the negotiation of the contracts between your company and American Can?

Mr. Hughes. You mean the underlying contracts?

Mr. Henderson. Yes.

Mr. Hughes. The long-period contracts?

Mr. Henderson. Or the contracts which were under discussion as to what the price should be.

Mr. Hughes. I participated in the negotiation of the present contract, dated September 22, 1936. I did not on the prior contracts, as I recall.

Mr. Henderson. Do you want to make the record clear whether or not you participated in any group of tin-plate producers concerning what the posted price would be?

Mr. Hughes. I did not.

Mr. O'Connell. Mr. Pfeltz, I was interested in the statement you just made to the effect, as I understood it, that at various times other producers of tin plate would come to you, during a period prior to or during your negotiations with Carnegie-Illinois Steel, and suggest that they would prefer, and would like to have, a higher price for tin plate than the existing price, or possibly than the price that they were afraid Carnegie-Illinois would arrive at. Was it possible that they hoped that you, as a prospective purchaser of the tin plate, would fight for a higher price for tin plate?

Mr. Pfeltz. We never fight for a higher price. We always fight for a lower price.

Mr. O'Connell. What would be the motive in a steel man coming to you?

Mr. Pfeltz. Here, we will say that before the price comes out someone may come in and say, "Well now, what do you think this price is going to be?"

I would say "I don't know; what do you think is justified?"

They will say, "We are having higher labor costs; all of our other materials, including pig tin and scrap iron, are going up. We think it should be 35 cents above today's price."

Well then, Carnegie comes along and names a price that is 25 cents instead of 35.

[1] "Exhibit No. 1407," appendix, p. 10992.

Mr. O'Connell. Well, you see my point. According to the general testimony, it sounds to me as though the other suppliers of tin plate approached you with a view to getting a higher price for tin plate.

Mr. Pfeltz. They are only hoping, Mr. O'Connell, that it will be higher.

Mr. O'Connell. But during the same period apparently they were not sufficiently hopeful or desirous to take the same steps as regards the party on the other side of the bargaining table. I don't see any reason why a steel man would expect the American Can Co. to help him to get Carnegie-Illinois to set a higher price for tin plate. It doesn't make sense, does it?

Mr. Pfeltz. No; it is only conversation.

Mr. O'Connell. But we don't even have the conversation on the other side, where I should think there would be conversation.

Mr. Pfeltz. What do you mean, we don't have conversation on the other side?

Mr. O'Connell. I take it we don't have the conversations between the steel people and Mr. Fairless that you have indicated.

Mr. Henderson. I think Mr. Fairless did say that every time before a new price is posted the other producers do say something as to what their hopes are.

Mr. Fairless. What I did say, Mr. Henderson, was that prior to the time when the official price of tin plate, Carnegie-Illinois' official price, is announced, or is usually announced—there is no set date; it is on or about December 1 of the previous year—why naturally there are questions asked me, if I meet a steel man, "Have you completed your negotiations with the American Can Co. with respect to the price of tin plate?" That is a natural question to ask, isn't it?

And my answer, if we haven't, is "No, we haven't."

Mr. O'Connell. Now you see my point. I am merely contrasting that situation with the situation Mr. Pfeltz has explained, in which steel men come to him and do not ask him whether negotiations have been completed, but give him reasons why the price should be higher, and I am merely suggesting that they are talking with the wrong man.

Mr. Fairless. I think it is perfectly natural conversation, however.

Mr. O'Connell. I should think it would be perfectly natural to have the same conversation with you.

Mr. Fairless. I don't buy tin plate; I sell tin plate. Mr. Pfeltz buys tin plate. I think it is a perfectly natural conversation for a seller of tin plate to have with Mr. Pfeltz, as he just recited.

Mr. O'Connell. But the seller is talking to Mr. Pfeltz about a price you and Mr. Pfeltz are to agree upon, and he is giving Mr. Pfeltz reasons why you should want a higher price. That is what Mr. Pfeltz said.

Mr. Fairless. He is going to get the price I get, isn't he?

Mr. O'Connell. That's right.

Mr. Fairless. I should think he has an interest.

Mr. O'Connell. Of course he has an interest.

Mr. Pfeltz. We will probably put it this way: If they give us a story like that, they may think we won't fight quite as hard for a low price. That is about it.

Mr. Fairless. But it has no effect.

Mr. O'Connell. That is my point. They talk to you and give you reasons why the price should be high.

Mr. PFELTZ. They try to sell me this idea that the price should be high, and it doesn't work. It hasn't yet.

Acting Chairman KING. Are there any other questions?

Mr. O'CONNELL. But they don't give Mr. Fairless the same argument.

Mr. PFELTZ. I don't know what they give Mr. Fairless.

Acting Chairman KING. We will take a formal recess for 5 minutes.

(A brief recess was taken.)

Acting Chairman KING. The committee will be in order.

Mr. HENDERSON. Mr. Chairman——

Mr. FELLER (interposing). May I just finish up this point? I should like to make two slight additions to the record; first, the Mr. Grace referred to in the letter of March 24, 1938, from Mr. Pfeltz to Dr. Baker,[1] is the Mr. Grace who is president of the Bethlehem Steel Corporation. I believe that was not previously in the record.

Secondly, I have been informed by the Continental Can Corporation, which Dr. Baker testified was the second largest producer of cans, that with one exception their contracts with the producers of tin plate contain price clauses similar to the price clauses in the contracts of the American Can Co.

I have just one other thing.

Acting Chairman KING. That is assented to by Dr. Baker?

Mr. FELLER. Dr. Baker would not know.

I should like to offer for the record, Mr. Chairman, two memoranda which deal with questions of law prepared by Nathan L. Miller, Governor Miller, who is General Counsel of the United States Steel Corporation. They bear no date and I believe Governor Miller would desire to say a few words with respect to them.

Acting Chairman KING. Do you want him sworn?

Mr. FELLER. I am making no use of them.

STATEMENT OF NATHAN L. MILLER, GENERAL COUNSEL, U. S. STEEL CORP., NEW YORK CITY

Mr. MILLER. Just to explain the occasion of the times when these memoranda were written. When Mr. Irvin became president of the United States Steel Corporation in April 1932, he consulted me on a number of occasions on the subject of what our antitrust laws permitted to be done, and what they said could not be done, and after a number of such discussions he asked me to prepare for his guidance and for the guidance of the officials of the manufacturing and selling subsidiaries of the Corporation as precisely as I could state them, because I had told him that there wasn't as much confusion about these laws as people popularly, commonly, supposed—he asked me to prepare memoranda stating as definitely as I could, with particular reference of course to the business of the steel industry, precisely what could and what could not be done under those laws.

I prepared two memoranda, one on the subject of "Relations with Competitors," one on the subject of "Sales Methods." Your memoranda, Mr. Feller, are not dated. Apparently they were obtained by the Department of Justice from the files of one of the subsidiary companies and apparently they were copies of these memoranda which were dated but the copies left off the date.

I have here, taken from our files, the copies of the original memoranda as dated, together with Mr. Irvin's letter of transmittal to the heads of the various subsidiary companies. The names of the persons

to whom these copies were sent are on the letter of transmittal. They were the then presidents of the manufacturing and selling subsidiaries The memoranda were dated June 7, 1932, and Mr. Irvin's letter of transmittal is dated June 10, 1932, and I suggest that you take this for the record instead of the copies that you have.

Mr. FELLER. Yes, sir; and may I say at this point that I hope very much that when the committee comes to consider in its final deliberations the question of what the antitrust laws mean, that they will take these very excellent, succinct memoranda into account.

Mr. MILLER. I ought to say that these opinions were written prior to the passage of the Robinson-Patman Act. I can't say as much for the definiteness of that act as I can for those that I have here discussed. [Laughter.]

Acting Chairman KING. There will be no controversy over that.

Mr. FELLER. I offer in substitution for what I have offered the copies which Governor Miller has given.

Acting Chairman KING. It may be accepted and you may withdraw the copies you have submitted. Have both of them offered.

(The memoranda referred to were marked "Exhibit No. 1408," and are included in the appendix on p. 10993.)

Acting Chairman KING. Is that all?

Mr. MILLER. That is all I have to say unless counsel wants to examine me on these opinions. I am prepared to defend them and I am prepared to defend the proposition, Senator, that our present antitrust laws are not indefinite and uncertain, and that there is no difficulty in understanding what they mean and that there should be no difficulty in enforcing them.

Mr. HENDERSON. Mr. Chairman, in connection with Mr. Fairless' testimony he several times referred to studies which had been made by the Corporation and by a special staff under the direction of Dr. Theodore Yntema of the University of Chicago. The staff has consulted with Mr. Olds and other members of the Corporation and they have submitted a number of copies which have been distributed to the members of this committee. I have made a short examination of the material and have consulted with the various departments and agencies as well as the committee staff as to the best procedure for the introduction of this material. I may say that based on what examination I could give the material last night there is material presented about one of the country's leading companies such as I believe was never available before, and it ought to be of extreme interest to this committee.

However, there are a number of inquiries and studies by the staff which need to be made before the committee would be in a position to make a fair examination of either the material or of Dr. Yntema, who is in large part responsible for it. The material falls into two parts, one part relating to the basing point which this committee assigned, as you will recall, to the Federal Trade Commission; the other relates to costs, demand for certain products, returns, and a volume of information which is particularly pertinent not only to questions of the steel industry but of the general operations of the committee.

I suggest, and this meets with the approval of our chairman, Senator O'Mahoney, and with the representatives of the Corporation, that we

set for the first opportune time after the first of the year a hearing at which these materials will be officially presented to the committee and that we attempt to arrange for Dr. Yntema to appear with other members the Corporation might select for discussion of this topic.[1] We would ask the Federal Trade Commission to take over the consideration of the basing point report and the staff of the committee to be responsible for the examination of everything else.

Mr. MILLER. Would you like us to have these identified for the record?

Mr. HENDERSON. I believe all members of the committee have them. We can officially receive them now and put them in our files.

Acting Chairman KING. I think that had better be done and have them identified.

Mr. MILLER. Read the titles?

Acting Chairman KING. I don't think that is necessary.

Mr. HENDERSON. The titles can be recorded in today's verbatim proceedings.

Acting Chairman KING. Will one of you confer with the clerk and the stenographers to see that the appropriate titles are incorporated in the record?

(The documents are as follows:)

1. "Index to Book of Charts and Book of Charts."
2. "Some Factors in the Pricing of Steel."
3. "A Statistical Analysis of the Demand for Steel, 1919–1938."
4. "An Analysis of Changes in the Demand for Steel and in Steel Prices, 1936–1939."
5. "An Analysis of the Demand for Steel in the Automobile Industry."
6. "An Analysis of the Demand for Steel in the Railroad Industry."
7. "An Analysis of the Demand for Steel in the Container Industry."
8. "An Analysis of Steel Prices, Volume and Costs-Controlling Limitations on Price Reductions."
9. "An Analysis of Steel Prices, Volume and Costs-Controlling Limitations on Price Reductions—Summary."
10. "The Basing Point Method of Quoting Delivered Prices in the Steel Industry."

Acting Chairman KING. They will be a part of the files of the committee.

(The documents referred to were marked "Exhibits Nos. 1409 to 1418," respectively, and are on file with the committee.)[2]

Acting Chairman KING. Is there anything else?

Mr. FAIRLESS. If Mr. Feller is through with me I have a very short statement I would like to make.

Acting Chairman KING. Proceed.

Mr. FAIRLESS. Mr. Chairman, before leaving the stand I would like to say, we feel the responsibilities of 235,000 workers whose daily bread depends upon our decisions. You must remember some 40,000 of our workers have invested their savings in shares of stock of our corporation. Close behind these are the thousands of supply dealers and shopkeepers, large and small, in the cities, towns, and villages where our plants are located. Then there are 220,000 stockholders, most of whom have had a lean time of it since 1931, the common-stock holders having received only one dividend of $1 per share paid in 1937, and finally—I do not put them last—there are our customers and the

[1] Hearings on the steel industry were resumed January 23, 1940. See Hearings, Parts 26 and 27 for testmony.

[2] The exhibits were later ordered to be printed. "Exhibits Nos. 1409–1417" are included in Hearings, Part 26; "Exhibit No. 1418" is included in Hearings, Part 27.

general public whom we serve. We feel it is our duty to work with and protect each of these groups to the best of our ability. The mere fact that our losses have been quite consistent as well as substantial since 1930, except in 3 years, should indicate that the price of steel has been so low that with the volume we have had only a meager profit has been made during the 9-year period. We have spread the work in poor years and by this means have been able to keep an approximate average of 60,000 men employed beyond the strict needs of the business available. At every point we have done our best to cooperate with the Government in the efforts to improve the distressing conditions which have prevailed. These are the facts of the great prolonged depression through which we have been passing. While we sincerely desire to provide constant and regular employment for our employees I cannot recommend following any untried theory in this important and complex business in attempting to accomplish this result. I have to move cautiously, taking into consideration all of the basic factors of the steel industry and seeking all the help and advice I can get from the experienced men around me. We have spent our business lives in the industry and I think we are fully qualified to deal with the problems of the United States Steel Corporation.

In addition, I wish to thank this committee for your patience and your very fair treatment, not only of myself but of the other witnesses of the United States Steel Corporation, and I also extend the same thanks to Mr. Feller and his group.

Acting Chairman King. Speaking for the committee, I think we may express our appreciation of the frankness with which you and your associates have discussed the matters presented. Is there anything else, Mr. Feller?

Mr. Feller. No, sir.

Mr. Henderson. I presume, Mr. Fairless, you will be present when we discuss this material.

Mr. Fairless. Yes.

Mr. Henderson. Because it relates to a number of topics which I should like to have interrogated you on as we went along. I am reserving a number of questions until that time.

Mr. Fairless. I will be here if I am well.

Acting Chairman King. You heard the statement of the Commissioner a few moments ago as to the proposition to discuss this presentation early in January, at a date which will be mutually agreed upon. Is that satisfactory with you and your associates?

Mr. Fairless. It is.

Acting Chairman King. Is there anything further?

Mr. Feller. I should just like to state the witnesses who will be called tomorrow. Mr. Eugene Grace, president of the Bethlehem Steel Corporation, Mr. Paul Mackall, vice president, and possibly we shall get to Mr. Ernest T. Weir, president of the National Steel Corporation.[1]

Acting Chairman King. The committee will stand adjourned until tomorrow morning at 10:15.

(Whereupon at 4:50 p. m. the committee recessed until 10:15 a. m., Thursday, November 9.)[2]

[1] Testimony of these witnesses appears in Hearings, Part 19.
[2] Hearings held November 9 and 10, 1939, are included in Hearings, Part 19.

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

MONDAY, NOVEMBER 13, 1939

United States Senate,
Temporary National Economic Committee,
Washington, D. C.

The committee met at 10:30 a. m., pursuant to adjournment on Friday, November 10, 1939, in the Caucus Room, Senate Office Building, Senator William H. King, presiding.

Present: Senator King (acting chairman); Representative Williams, Messrs. Frank, O'Connell, Avildsen and Brackett.

Present also: Hugh White, representing the Federal Trade Commission; John V. W. Reynders, representing the Department of Commerce; A. H. Feller, Special Assistant to the Attorney General; John W. Porter, Irving B. Glickfeld, Hyman Ritchin, Monroe Karasik and Ward S. Bowman, Department of Justice.

Acting Chairman King. The committee will be now in order.

(Representative Williams took the Chair.)

Mr. Feller. Mr. Hook, please.

TESTIMONY OF CHARLES HOOK, PRESIDENT, AMERICAN ROLLING MILL CO., MIDDLETOWN, OHIO—Resumed [1]

Acting Chairman Williams. Before you proceed, Mr. Feller, I have here a letter from Mr. H. H. Anderson, Shell Oil Co., Inc., Shell Building, St. Louis, Mo. who appeared as a witness on October 11, 1939. He agreed to furnish Dr. Isador Lubin, Commissioner of the Bureau of Labor Statistics of the Department of Labor, with certain data on the cost of workmen's compensation insurance, and he has now furnised that in the attached letter from Mr. Anderson, and he asks that it be inserted in the record. That has been approved by Dr. Lubin, and we ask that that be incorporated in the record.

(The letter referred to was marked "Exhibit No. 1422" and is included in Hearings, Part 16.)

Mr. Feller. Last week, Mr. Chairman, various figures were introduced into the record with reference to the price of cold rolled sheets which are rolled on the continuous rolling mill. These figures were introduced during the testimony of Mr. Hook.

Mr. Hook. They weren't introduced in mine.

Mr. Feller. I beg your pardon—you made reference to the prices of certain products. In order to complete the record I should like to introduce a chart entitled "Base Price of Hot Rolled Sheets, Pittsburgh, by Months, 1921–1939, inclusive," the source being the Iron Age, and another chart entitled "Base Price of Black Plate for

[1] Mr. Hook's previous testimony appears in Hearings, Part 19.

Tinning, Pittsburgh, 1926–1939," the source being the Iron Age, both of these charts being prepared by the Department of Justice.

Acting Chairman WILLIAMS. They may be admitted.

(The charts referred to were marked "Exhibits Nos. 1423 and 1424," respectively, and are included in the appendix on pp. 10997 and 10998.)

Mr. FELLER. I point out that both of these products are rolled on the continuous mill.

Mr. Hook, on Friday we had been discussing the patent licenses which your company has issued on the continuous rolling mill,[1] and I should like to revert just for a moment to that subject. You pointed out to us that on certain products the price had declined substantially since the introduction of the continuous rolling mill. You also pointed out to us the various price clauses contained in your licenses which, under certain conditions, or if certain conditions were fulfilled, would give you the right to determine the minimum price at which certain of the products rolled on the continuous mill should be sold.

Merely by way of summary, is it not correct to say that if the validity of those price clauses were determined, you would then have power to reverse the price trend which these products have shown, that is to say, you could prevent the products from declining in price, and you could then determine that the price curve should go the other way, which would bring the price up.

Mr. HOOK. We would have the power to set a minimum price below which the products or the royalty products, as referred to in the license contracts, would not be sold.

Mr. FELLER. And that power you could exercise, not on the basis of actual market condition, but on the basis of what, in your discretion, you assume to be best for your business.

Mr. HOOK. And protecting the interests of the company. Correct.

Mr. FELLER. With that slight reference to the testimony of last week, Mr. Chairman, I should like to go on to another topic.

A year ago, to be exact on September 8, 1938, Mr. Hook wrote a letter to Dr. A. A. Berle, in connection with a memorandum of suggestions which Dr. Berle had made to this committee, With Mr. Hook's permission, I should like to insert this letter, offer this letter for the record, and mimeographed copies have been prepared for the members of the committee.

Acting Chairman WILLIAMS. I assume you have no objection to it, Mr. Hook?

Mr. HOOK. I have no objection at all, Mr. Williams. In fact, I would like very much to see it put in the record, provided the revision up to date is included.

EMPLOYER COOPERATION IN THE BRITISH ISLES AND IN THE UNITED STATES

Mr. FELLER. I should point out that the figures which were attached to the mimeographed copy have since been revised since the mimeographed copy was prepared, and I have the revised figures for the reporter. Unfortunately we don't have them mimeographed.

Acting Chairman WILLIAMS. The letter may be received.

(The letter referred to was marked "Exhibit No. 1425" and is included in the appendix on p. 10998.)

[1] See Hearings, Part 19, p. 10690 et seq.

Mr. FELLER. A number of matters mentioned in this letter have been under discussion in Mr. Hook's testimony. There is one subject which I think the Committee could appropriately consider now. On page 3 of this letter, the following occurs [reading]:

Early in this letter I mentioned our business interests in England and our association with English manufacturers. This experience and my recent studies as a member of the Commission appointed by the President to investigate Industrial Relations in England, has impressed me with the difference in the way we have generally attempted to make changes affecting our industrial system.

As you know, over there when an important change or study is contemplated, a royal commission is generally appointed with an outstanding, able and impartial chairman, together with equal numbers of parties in interest. Plenty of time is taken to make a thorough study and investigation before conclusions are drawn by either the commission or the Government.

No sensible industrialist would contend that there must not be certain proper regulation of corporate activities; however, we cannot peg wages or continue to increase wages if management is denied the right of group cooperation with respect to prices.

In England the right of employers to cooperate with respect to price and allocation of business is not denied and, therefore, there is greater opportunity for employers to cooperate with employee organizations with respect to wages, and the public is protected against the combination of employer and employee organizations through the operation of the Import Advisory Committee.

Please do not misunderstand me. I am not advocating the British system for the United States. I have simply brought these several matters to your attention to indicate the many factors that must be taken into consideration and how carefully the whole field must be studied if Senator O'Mahoney's Committee is to make a report that will be of real value in helping to create a situation that will encourage and not destroy individual and corporate initiative and that will raise and not lower the standard of living of the average citizen.

Mr. Hook, are you still of the mind that you were when you wrote this letter, with respect to this portion of the letter?

Mr. HOOK. I haven't changed my opinion.

Mr. FELLER. Do I take it that your opinion is that to some degree, in some manner, management should be granted the right of group cooperation with respect to prices?

Mr. HOOK. Well now, in talking about prices, Mr. Feller, I don't mean by that the right to agree on prices. But I think that it is perfectly proper and I think in the public interest, certainly in industry's interest, for corporate management to discuss the relationship between cost and price. And as a result of discussion, which I have always been in favor of, whether it be employer and employee or whether it be units of an industry, I think a real understanding of the economic problems involved results, and always out of it comes, a constructive conclusion.

I think, so that you won't misunderstand me, I made it perfectly clear that I was not recommending the English system, because to recommend the English system you would have to have the English laws. As you know, in England an employers' association is a trade-union, just exactly as an employees' organization is a trade-union. Therefore, the responsibilities and obligations and opportunities of the two are identical and the same. Now, of course, England is a great exporting country, and therefore the operation of the import advisory committee would operate very much more quickly and possibly more effectively, because we are not a great exporting nation. I don't know, possibly about 10 percent; I haven't the figure in my mind, I don't know. The Department of Commerce would probably answer that question.

Mr. AVILDSEN. Can you tell us a little bit about this import advisory committee? It is something I am not at all familiar with.

Mr. HOOK. It may interest you to know that in '37, for instance—here is an illustration—when I was over in the summer of 1937 a discussion was going on between the automobile manufacturers and the manufacturers of steel who made steel for automobile production, the automobile manufacturers contending that prices were too high, the steel manufacturers contending that the prices were fair and proper, and as a result there was an investigation by the import advisory committee to determine whether or not prices were fair and proper and in the public interest. It resulted in the advisory committee, as I remember, coming to the conclusion that for the period that prices had been set, which was up to the end of December 1937, taking into consideration the obligation of the steel manufacturers as to wages, as to raw material prices and the other things entering into cost, that it was a fair price, so that they did not rule adversely or make an adverse report. However, the steel manufacturers agreed that as of January 1, 1938, there would be a revision and there was a revision.

Now, I talked to the managing director of one of the very large motor interests with respect to this subject while I was over there, because he knew that our foreign subsidiary was sitting in on these discussions, and he appealed to me and pointed out what he thought was their side of the story, and I think I was able to present to him what few facts I had, few because I was too far away from it to have all the details.

Mr. AVILDSEN. Have you any idea how long that investigation took?

Mr. HOOK. No; I haven't the slightest idea.

Mr. AVILDSEN. Did it go on for weeks or months?

Mr. HOOK. Undoubtedly for several weeks, maybe it was months, I don't know.

Mr. AVILDSEN. Who appoints this committee? What is it a committee of?

Mr. HOOK. It is an appointed Government body, permanent, and it reports to the proper division of the Government which has the power to reduce quotas or tariffs, and that is the way they would control it; in other words, assuming that the import advisory committee had determined that these particular prices of these particular products in the steel industry were too high, and not in the public interest, they would so advise the steel industry, and if the industry didn't voluntarily revise prices, then the import advisory committee would recommend to the proper division of the Government a reduction in the tariff protection which the steel industry enjoyed against the low-cost producers of the Continent—for instance Belgium, Germany, and other countries, so by reducing or taking off the quota, or reducing the tariff, it had the effect of, well, "Either reduce your prices or in will come competitive material."

That is, as I understand, the way it operates. The point that I was trying to make here, Mr. Chairman, is that in England the several divisions of government do cooperate with business very closely. There is a very friendly, cooperative attitude, irrespective of what the division of government may be. That we noticed was the case with

the Ministry of Labor. They are not prejudiced, not partial, but attempt to present the facts as to both sides of the picture and to help in the proper solution of the problem, in other words business is encouraged by real cooperation on the part of the Government.

Mr. AVILDSEN. Mr. Hook, did you find that the steel industry in England by reason of this cooperation and consultation was able to avoid the peaks and valleys that we have had in the steel industry in this country?

Mr. HOOK. Well, Mr. Avildsen, I am afraid that I am not competent to answer that question. I can only tell you what our own experience has been with respect to one part of the steel industry; in that particular division of the steel industry during the period that we have been associated with steel companies in England there have not been the peaks and valleys, certainly not as much as we have had. The part of the industry with which we have been associated has to do with the manufacture of specialty sheets. We were not interested in the manufacture of what we called commodities or the common grades of sheets.

Mr. AVILDSEN. Do you think that stabilization of production is due to the consultation between the large producers and the large consumers?

Mr. HOOK. I think, personally it is my opinion, that it has had much to do with it.

Mr. AVILDSEN. Do they fix prices for a year in advance, 3 months, or what is their practice?

Mr. HOOK. It depends upon the product, Mr. Avildsen. In the industry that we are associated with, high-finished sheets, I think that generally it is set for 6 months, as they have been able to contract for raw materials on the same basis, and so forth. Whether they go further than that I don't know, and at times if a change in conditions with respect to raw material purchases were indicated, I imagine that they would reduce the period for which the price was set.

Mr. REYNDERS. Mr. Hook, in the course of your patent negotiations you have come in contact also with the steel industry of France and Germany, to some extent?

Mr. HOOK. Well, with the United Steel Co. (Vereinigte Stahlwerke) in Germany and with two of the very large units in England; yes.

Mr. REYNDERS. Disregarding the present situation and going to perhaps the situation that has obtained for the last 3 or 4 years, are you able to say whether there was a cooperative attitude on the part of the Government in Germany and France?

Mr. HOOK. Yes; I think that that is true; at least our experience is that it is true in Germany as well as in England.

Mr. REYNDERS. In other words, they regard the steel industry there I suppose more from the point of view of international competition than we do in this country.

Mr. HOOK. Well, I presume so, Mr. Reynders, because of course England being such a large export nation they would have to take into consideration their international situation.

Acting Chairman WILLIAMS. Do you have your own mills there?

Mr. HOOK. No; we don't own the mills. We work with the English manufacturer and assist him in the operation of his mill.

Acting Chairman WILLIAMS. To what extent do you export your products?

Mr. HOOK. From this country?

Acting Chairman WILLIAMS. Yes.

Mr. HOOK. Of course, that differs in different periods, but I have the record here.

Acting Chairman WILLIAMS. What was it during '37 and '38?

Mr. HOOK. Well, I think it was about 8 percent.

Acting Chairman WILLIAMS. And that was a specialized product?

Mr. HOOK. Yes; largely specialized.

Acting Chairman WILLIAMS. Was that product that you exported made in England?

Mr. HOOK. Oh, no; do you mean what we——

Acting Chairman WILLIAMS (interposing). I mean the same kind of product. I don't mean the one you export, of course. Were you in competition, in other words, with that particular product in England?

Mr. HOOK. No; the majority of things which our own company export are specialties which we have produced here and developed in this country, and with respect to which there is not severe competition on the other side, although at times, it may interest you to know, in the mill that we are associated with in England, which we gave technical advice and help,[1] due to the difference in methods between our American system of management and theirs, at times even under our instruction we weren't able to get the quality in the very highest grades produced. It took us several years before we were able to help them train their organization to do the job so that they could make a comparable grade over there to what we made over here. So during that period we exported those top grades from here and made the lower grades in the English mill. That is still true in certain products.

Mr. O'CONNELL. Mr. Hook, that situation which you have just described as existing in England in the steel industry requires, does it not, not only a different type of industrial organization; that is, an industry sitting down or in position to act as an industry, as well as a different type of law, legislation, than we have in this country?

Mr. HOOK. Oh, yes.

Mr. O'CONNELL. You couldn't do it here.

Mr. HOOK. Oh, of course, you couldn't.

Mr. O'CONNELL. Do you think we ought to try it here?

Mr. HOOK. I think that would require very careful investigation.

Mr. O'CONNELL. That is quite a revolutionary step for this country, it is quite foreign to anything we have in either industry or government that is considered desirable in this country.

Mr. HOOK. Oh, absolutely. As I said, you couldn't operate it here under our method of operation; the whole scheme of operation would have to be similar to the English scheme. The attitude—I press on that point—of the various departments of government would have to be the same. You can have the best plan in the world, as you know, and unless that plan is operated by efficient people and working together, the plan won't work.

Mr. O'CONNELL. What you refer to as attitude, at least insofar as antitrust laws are concerned, is to a large extent, I should think, a result of the laws that we have. We have a Sherman Act and other

[1] Richard Thomas & Co., Ltd., Ebbw Vale, Monmouthshire, Wales, British Isles.

laws which have been in effect for 40 or 50 years. You can't do much about attitude in that field without changing the laws.

Mr. Hook. I am not recommending the change of the antitrust laws. As a layman it seems to me that the laws are adequate to control industry. It seems to me—maybe the legal profession wouldn't agree with me at all, we have a very distinguished member of the bar here whose judgment I value very highly and he might not agree with this—as a layman, because I believe so much in consultation and cooperation, the only suggestion I would have would be a change which would permit industry to go, whether it be the Department of Justice or other body, or the Federal Trade Commission, which would be empowered to tell us, when we wanted to cooperate in a certain way, "Yes, that is legal; and you have the right to do it." The trouble as I understand it today when we have a borderline case or a plan is, "Well, we can't tell you. The courts will have to decide." So we have to determine whether it is something that we can properly do or take a businessman's chance, as it were, and wait for the courts to decide. I don't know whether I make myself clear.

Mr. O'Connell. It seems to me that you are advocating or suggesting that we consider something that has been talked about for a number of years and in legal parlance it is what is known as administrative declaratory rulings, the right for people to come and present a program or plan of something that they propose to do and be advised in advance as to whether or not it is considered legal by those who would be clothed with that function.

Mr. Hook. Right.

Mr. O'Connell. Specifically, and getting down to cases and talking a little bit about price, what would you think in the price field an industry should be able to propose as an industry and have any governmental agency approve it? I was trying to get down to price. It seems to me price is the heart of the problem. There may be other things but I would like to talk about that one.

Mr. Hook. I am not advocating, I am very much opposed to, industry setting a price. I am very much in favor of open competition. I am very much in favor of published prices so that the world and everybody else knows what your price is. I think that is very essential. Personally, I think, and maybe many of my associates in the industry wouldn't agree with me, that it would be very advantageous and in the public interest for industry to be permitted to file its prices with its trade association so that those prices are known to everybody; in other words, they are maximum prices.

Mr. O'Connell. Of course you would also expect the people in the industry would adhere to those prices, wouldn't you, as they filed them?

Mr. Hook. Yes; if I made a price, if I filed a price, then I ought to be held accountable and expected to maintain that price until I filed a new price.

Mr. Avildsen. That is substantially what you did under the N. R. A. Code, isn't it?

Mr. Hook. Substantially.

Mr. Avildsen. That part of the N. R. A. procedure you still agree with.

Mr. Hook. Yes, sir. That is my personal opinion, I am speaking for nobody but myself.

Mr. O'Connell. But what you have described as being the situation exists in England you wouldn't advocate in this country, in other words, a set-up which would permit of price fixing by industry under or with governmental sanction or aproval?

Mr. Hook. I certainly wouldn't under our conditions.

Mr. O'Connell. I mean the main condition, though, is one of law, it seems to me.

Mr. Hook. Yes.

Mr. O'Connell. You wouldn't advocate changing the law.

Mr. Hook. No; I wouldn't advocate changing the law in that respect. I would advocate a wider permission with respect to consultation and dissipate the fear that when businessmen get together to discuss what I think is perfectly legitimate, costs, the relation of cost to price, and so forth, they wouldn't be under the fear of prosecution or criminal offense.

Mr. O'Connell. You don't subscribe to Adam Smith's old dictum to the effect that businessmen seldom get together for any purpose but what the result is conspiracy to fix prices.

Mr. Hook. No, sir; I don't. I have had too much experience with businessmen and I am convinced that the great vast majority of businessmen in this country are trying to do a constructive, helpful job in the public interest and not to act against public interest.

Acting Chairman Williams. As a matter of fact, don't you have these consultations that you talk about?

Mr. Hook. Yes; we do. We talk costs and conditions of the industry, but we are scared to death to discuss price.

Acting Chairman Williams. There ought to be a very definite relation between cost and price, oughtn't there?

Mr. Hook. Naturally, you are supposed to use your judgment if you find that the relationship between cost discussion—and Mr. Williams, that is generally on detailed parts of the operation, not on the over-all cost. I have never heard a discussion in any group of the total cost. Generally, it is with respect to an operations cost.

You know, for instance, that in the steel industry we pickle sheets. I am just using that as an illustration; or we open-anneal sheets. Well, what kind of a furnace do we use and what is the operation cost of that particular operation?

Acting Chairman Williams. Do these English mills manufacture a comparable product to yours?

Mr. Hook. Well, they didn't. They are getting nearer to it now as a result of experience.

Acting Chairman Williams. How does the cost of production there compare with yours?

Mr. Hook. I am not competent to answer that question, Mr. Williams, because our job over there is to assist them in managing the mill with respect to their operation and not go into the details of cost. I suppose our men in our subsidiary in England do discuss must at times discuss, with the English manager their costs, but I have no figures; it would be a mere guess. I think the answer to that, Mr. Williams, must be this, that the very fact that they have to set up the tariffs which they do against the special products of the United States indicates that their cost has not yet got in line with ours on those special products.

Mr. REYNDERS. May that fact not be due to the competition which they experience from Germany and Belgium?

Mr. HOOK. Germany and Belgium are not competitive in these high-grade sheet products that I am talking about, although Germany is now making a very much better high-finished sheet than they did 3 years ago.

Mr. REYNDERS. They have installed a number of units.

Mr. HOOK. They have put in one of our mills and their product has improved.

Acting Chairman WILLIAMS. How does this base price of sheets get established?

Mr. HOOK. How does the base price of sheets get established?

Acting Chairman WILLIAMS. Yes.

Mr. HOOK. Well, that has been over a period of years.

Acting Chairman WILLIAMS. From year to year?

Mr. HOOK. For instance, we decide on the specialty products which we make. We may be the leaders in a particular grade. You remember I mentioned a pure iron, ingot iron.

Acting Chairman WILLIAMS. Let's just take the ordinary sheets.

Mr. HOOK. The units that are the biggest producers of that grade would establish their price, dependent of course upon their costs and the economic conditions that exist at the time.

Acting Chairman WILLIAMS. That price is published and becomes the base price for the industry.

Mr. HOOK. No—well, it becomes——

Acting Chairman WILLIAMS (interposing). The base price.

Mr. HOOK. The base price—I am glad you brought that point up—what it is, is a statement to the buyer in effect that for the period which those prices have been established that they will not go any higher.

Acting Chairman WILLIAMS. What is that period?

Mr. HOOK. Generally a quarter, three months. There have been cases in our industry when the competition was so severe, in automobile sheets early in this year, for instance, that the automobile industry was able to get some of the units and we all followed, to agree to sell at the same price for shipment up to December 31 of this year. Now that doesn't happen very often. It is generally a quarter because we can't anticipate, we can't take a chance.

Acting Chairman WILLIAMS. To what extent has the realized price followed the base price?

Mr. HOOK. In that particular—do you mean the quoted price?

Acting Chairman WILLIAMS. The price that is realized by the industry, the actual price.

Mr. HOOK. The announced price. Well, it hasn't followed it unfortunately, Mr. Williams. For instance, during this quarter in some weeks on certain grades that are sold to the automobile industry they have sold $8 under the announced price. That came about by somebody trying to get a good-sized order, I suppose, and they made a lower price than the announced price. Somebody found out—and you do find those things out by contact with the buyer—and in order to get his share he may have gone a little bit lower. Finally there was that seesawing back and forth until they finally got down to a point where it was so low that nobody wanted to go any further and it just stopped.

Acting Chairman WILLIAMS. Then what did you do—establish a new base price?

Mr. HOOK. No; not for that period, because it was on contract.

Acting Chairman WILLIAMS. For the future?

Mr. HOOK. Nobody has announced for the next quarter yet.

Acting Chairman WILLIAMS. I am talking about the policy that was followed. You got down to the low point below which nobody wanted to go. Then what did the industry do?

Mr. HOOK. Then somebody feels that the base has been established and they will announce a price probably on that base unless they feel they can get it up and announce somewhere between the low that it reached and the announced prices that were supposed to be in existence.

Acting Chairman WILLIAMS. Do you feel in that competition there have been considerable sales below cost?

Mr. HOOK. Yes; I do.

Acting Chairman WILLIAMS. What do you think about that policy?

Mr. HOOK. I don't like it. I don't think it is a good policy.

Mr. O'CONNELL. Do you think it is a good policy to deviate from the posted price?

Mr. HOOK. Well, I don't think it is a good policy.

Mr. O'CONNELL. You wouldn't be the first one to deviate, would you?

Mr. HOOK. None of us think we are the first, and sometimes I think we are misled, unquestionably. We think that we have the information, possibly we think that "X" company has made a reduction of $2 a ton and the man in the field confers with the management at home and says, "Here, we are going to lose out with XYZ company if we don't meet this competition," and management authorizes that it be met and in some instances they may decide to go a little lower.

Mr. O'CONNELL. I take it the ideal of this posted-price system would be one in which there would be no deviation by any of the industry from the posted price.

Mr. HOOK. Of course that would be ideal for the individual companies—I am talking now about its being up to the individual company to maintain its price. That doesn't mean that somebody else can't post a price which is lower, but if we want to get the business we know that for an identical product we can't get anything better than the other fellow. For instance, let me illustrate. Suppose you were selling Ford cars on the east side of the street and I was selling Ford cars on the west side of the street and your price for Ford cars was $500; well I couldn't get $510 for my car on the other side of the street. The same thing happens when you are selling identical products in the steel industry.

Mr. O'CONNELL. It has occurred to me from time to time as we have listened to this testimony that any posted-price system which is operated to perfection is one in which you have a minimum competition. We have heard from time to time in this steel hearing about the extent of underselling or price concessions being obtained off the base price and at one point it was indicated that that was the extent to which price competition really existed in the industry.

Mr. HOOK. I can't agree with that. I think you may have misinterpreted what some of us in the industry have said. What in

effect is posted price is a guaranty, or it is announced to the buyer, that he won't be charged any more than that during that period, and below it he can, if he can work it, get lower prices, and you know that that is why realizing price and posted price are not the same; and there has been very severe, and I call it severe, not lively but severe competition in the steel industry because we have through technological development over a period of time developed our mills to produce very large tonnages. Of course we are all anxious to run those mills as near full as we can and as a result of that desire to get business units will quote below what is known as the established price. I want particularly to call your attention to the fact that—excuse me for impressing it or trying to impress it upon you—this announced price is really a guaranty for that period of time that they won't be sold any higher than that, so that the buyer knows that at least for that period he won't have to pay any more than that.

Mr. O'Connell. Surely; but if the system works to perfection that is also the realized price.

Mr. Hook. Yes; if it works to perfection.

Acting Chairman Williams. To what extent has the base price through the years been realized? How does it run? What percentage of the business is conducted on the basis of base price as compared with the price below, cut prices?

Mr. Hook. Mr. Williams, I would be guessing at that.

Acting Chairman Williams. Of course you all try to realize the base price.

Mr. Hook. We try to get the base price if we can.

Acting Chairman Williams. What I was trying to find out was to what extent you realize whether it is a substantial part of your business or whether it is only a very minor part of it that is sold on the base price.

Mr. Hook. That depends upon the period, the conditions, the general business conditions at the time. You realize that.

Acting Chairman Williams. I am trying to find out whether or not the business is conducted generally on the base price or whether that is the exception.

Mr. Hook. No; I would say that generally the company that announces a base price—I am not talking of these very unusual competitive periods, for instance, like the one we have been experiencing since last May when there was a terrifically competitive situation. The disturbance the year before and just the year before when changes in conditions created a competitive situation make it hard for me to say what percentage was sold on the announced price. Take the period we are going through right now, the fourth quarter of 1939. The volume of business is such that I judge that the mills which have open spaces on their schedules which would permit them to roll in the fourth quarter for delivery by, say, December 31, will get the full announced price for practically all of the tonnage, I imagine, that they sold; that is so simply because you are dealing with supply and demand.

Mr. Avildsen. Mr Hook, isn't it also a fact that at the present time some small producers, nonintegrated producers, are selling their product above the posted price of the United States Steel Corporation, for example?

Mr. Hook. Yes.

Mr. Avildsen. In other words, your statement that you can never get more than the posted price isn't exactly true. You can get more than the posted price at times when there is an unusually heavy demand and deliveries can't be made at the posted price.

Mr. Hook. I am glad you asked me that question. I realize I might be misunderstood. Take that situation you are talking about. When those companies announced their price for the fourth quarter, that meant that they could contract for that period, their buyers could contract for that period. Now as to any buyer who did not contract for that period, during the time that such price was in effect, then the mill might change the price and this new price would become a new posted price, don't you see? So that thereafter a buyer could buy only at the new posted price. Increased cost of raw materials and other things might be such that even after making an advance above the quoted price of, say, September 1, the mill might make another one as of October 1; the buyers then who wanted to buy their product would cover the balance of the quarter and if they didn't, then the mill might raise on October 27, another dollar; that isn't inconsistent with what I said. Do I make it clear?

Mr. Avildsen. Yes, sir.

Mr. Feller. I should like to ask this question. I am not sure that the record indicates clearly the extent of group cooperation that you suggest as proper to the industry. You have talked about costs and about relation of costs to price. In your letter to Mr. Berle you speak about the right of group cooperation with respect to prices.[1] I understood from your testimony that you do not suggest that there be any agreement with respect to price. I take it what you mean there is that you do not suggest that each company agree to be bound legally by prices which are arrived at, but am I correct in saying that what you do suggest is that industry be permitted to get together in confidence and discuss what the price ought to be?

Mr. Hook. No.

Mr. Feller. On the basis of cost.

Mr. Hook. No; what they ought to be, but what would be indicated as a fair price under the circumstances, because when you say what they ought to do, that indicates that I mean agreement, and I am not in favor of that. I think in America we have built up our industrial system on freedom of action, freedom of competition.

Mr. Feller. To be precise, you feel that industry should be permitted to get together and discuss what a fair price would be on the basis of cost.

Mr. Hook. That is right. There would be differences of opinion, no doubt.

Mr. O'Connell. What do you think the result would be as a practical matter? You would have wide differences of opinion and certain differences in cost. Where would the consumer come out in terms of business?

What kind of price would you have as a result of that form of cooperation?

Mr. Hook. I think we would have a fair price, sir.

Mr. O'Connell. A fair price from whose standpoint?

[1] "Exhibit No. 1425" appendix, p. 10998.

Mr. Hook. To the consumer, because it is in the interest of the industry to see that prices are fair as related to cost, and if you were unwise enough to set prices which would stop the sale of the product upon which your business is dependent for profits, why, you would kill the goose that laid the golden egg.

Mr. O'Connell. When industries get together and discuss prices and consider the cost factor, and you would ultimately arrive at a fairpric e, it would be a fair price as related to someone's cost. Whose cost?

Mr. Hook. You get the general average.

Mr. O'Connell. Would a fair price be a price that would continue in business all the units that would be sitting together at a particular time?

Mr. Hook. I couldn't answer that. We have put out of commission in the steel industry a tremendous amount of capital assets. You know, for instance, that in our end of business—I mentioned in the memorandum which I read at the beginning of my testimony that certainly at least $200,000,000 of old equipment was made obsolete by the introduction of this new system. Well, the industry is taking its medicine, and we smile because we know that that is the American way of doing things. That is why we have better products and lower costs, and why more people have been able to buy the things that enter into raising their standard of living.

Mr. Reynders. In such a discussion of costs is it your feeling that the general information as to what real cost is would be increased? There might be some producers overlooking some items of cost, and would not be taking account of them, but in a discussion of cost, they would have the benefit of the discussion of the industry as to what a real cost is.

Mr. Hook. I will express myself on that. I have been one of those who have advocated that when you are talking about cost, it means all your obligations as to cost, and in talking in our own organization we always refer to the preferred dividends as interest, not as dividends, because you know that there are mighty, mighty few issues—I don't know of any principal issues today—of preferred stock that are not cumulative, and you have got to pay the dividend sooner or later. It is just as much a part of your cost as the interest on your bonds, although you may be privileged to defer it for awhile. But before the common-stock holder, who takes the enormous risks in industry, gets a penny, all those back payments on preferred interest must be made up. Therefore, we must take that into account in figuring our cost, and I am afraid many times those things are forgotten.

Mr. Reynders. Would the same thing apply to such items as obsolescence, for instance?

Mr. Hook. Yes.

Mr. O'Connell. I don't want to labor the point, but I still don't quite understand exactly the sort of fair price you would get. I would assume that in an industry such as steel there would be varying costs as between different producers.

Mr. Hook. Yes.

Mr. O'Connell. And if the industry were in a position to sit down and discuss what a fair price would be, based upon costs, I would like to know whose costs.

Mr. Hook. Well, that comes as a result of discussion. You know who are the economic units in the industry and you know darn well that, taking it as a whole, the economic unit can get a better price for your product in relation to cost than the other fellow, and if the majority in the industry, by location and by efficient methods, have costs that are lower than yours, have very materially lower cost—I am talking of materially lower—you realize you have got to get to work and change your equipment and get on the bandwagon, or eventually you will be out of it.

Acting Chairman Williams. That would be cost based on the most efficient and economical administration.

Mr. Hook. Several units, not only one; the more efficient units.

Mr. O'Connell. I rather queried that, in practical operation, because, as I would understand it, the situation would be one in which the efficient, the less efficient, and the least efficient would be all sitting down together to determine what a fair price was, and I am wondering whether it would be possible that a fair price so arrived at would be a price which would be one which would be based, as a practical matter, on not the most efficient producer, but on the least efficient producer, one which would keep all the units in business.

Mr. Hook. That wouldn't happen, not in this country.

Mr. O'Connell. You mean the system might break down?

Mr. Hook. I think to some extent that has happened abroad. I think they were late in taking advantage of technological development which was brought out over here simply because they didn't have the nerve to throw their capital assets in the wastebasket and make the necessary capital expenditures to go ahead, and it is only for that reason that we were able to get in. It is a difference in attitude of management. It is very different. My experience over there and my experience with American management is that American management is continually and everlastingly looking for ways and means of making a better product, in order, of course, to have their product favored, and for better means of producing at lower costs so that the product could be sold at a lower price and more people would be able to buy.

Mr. Avildsen. Let's take the case of your own company. You are responsible for some great technological improvements in the manufacture of sheets.

Mr. Hook. Yes.

Mr. Avildsen. Do you think that you would have been inspired to risk all that money and to do all that work to bring about those improvements if you were sitting in with a group, consulting on cost, and you were pretty sure that everybody in that group was going to get a fair price for his product? Wouldn't that have the effect of removing the incentive for you to do the very things you did in your industry? Didn't you make those improvements to get a greater volume of business?

Mr. Hook. Oh——

Mr. Avildsen (interposing). I think those are the things Mr. O'Connel has in mind.

Mr. Hook. Maybe I can make that clear. I am glad you asked me that question.

Now, let's go back to—well, let's take a recent development. It happens that this is a patented process. I think I mentioned it here

last Friday. We call this new sheet Zinc-grip. By this new process, which was originally developed by a Polish engineer—and we sent men over to Poland several years ago to see his little unit, really more or less of an experimental unit—he hadn't been able to develop it to make wide sheets and long sheets—so we sent over and investigated it and saw the merit of it, that it could be developed, so we purchased the rights for the United States and an interest in the European rights.

Now, we spent probably, as I said, about $300,000 before we ever made a commercial sheet. But we did that because we believed that in that special product—that isn't a commodity product, that isn't anything that I would feel that I had to sit down with my competitors and discuss, unless we licensed them. But if we were operating that process ourselves—and during the development period, we certainly would want to retain the right to ourselves until we had developed it and developed our costs. But in that particular sheet—for instance, we can take a galvanized sheet. Here is an object. Now, formerly it was necessary, for certain products, to make it out of a black sheet, pickle it, take the oxide off, and stamp it, and then dip it in a galvanizing process, which took a great deal more zinc and was much more expensive. If we could make a galvanized sheet, the coating of which would stick when you stamped it, and do that all in one operation, you can see what that was going to save the producer of the finished article. He would then be able to take a coated sheet and stamp it right out, instead of taking a black sheet, pickling it, then stamping it, and then dipping it, largely by hand.

Now, in that case, it was up to us to determine what is a fair price, and that is what we are trying to do, to sell the product and still secure for ourselves a fair return on that sale. What we have been discussing here is the general run-of-mill, run-of-mine product.

Mr. O'Connell. What I have in mind is—there is nothing very mysterious about it—I was always under the impression that the only fair price is one determined by the forces of competition between sellers on the one hand, and possibly between buyers on the other, and it occurs to me that what you are suggesting is at least a variation of that, and when I suggest to you that it might result in a fair price based upon what some producer other than the most efficient producer might get, you say it can't happen here. It is the fact that it has happened in other places, and I am not entirely convinced that it might not happen here. That is my only point. I am suspicious of consultations for the purpose of fixing a fair price—I am sorry I used the word "fixing," but even to ascertain what a fair price would be, whether it be by industry, of whether Government takes a hand or not. I just think it is a variation from what we hope to have under a competitive system, because competition is supposed to be regulative of price, and I am wondering whether, under what you think would be desirable, you would have the same sort of competitive situation we hope to have here, or whether we would have something entirely different.

Mr. Hook. My experience with American manufacturers is that they realize definitely that lower prices, as far as they can get lower prices consistent with fair profit, and that such discussion would only encourage further technological advance, because you could not get the American manufacturers, those who have the efficient units, to agree to a price which would be high and stop competition. It just

operates that way. We have to be realists about these things, and know just how it happens, and that is the way it does happen.

Mr. O'CONNELL. I can conceive that some manufacturer or manufacturers who didn't take as long run a view of the situation as you do would be, in a given moment, very happy to accept a price based upon the costs of the less efficient producer. It merely, temporarily at least, increases the margin of profit for the more efficient one. But you don't think it would work that way.

Mr. HOOK. I think the man who has advantages by location is certainly entitled, through efficient management and operation, to a greater profit in his unit if he can get it.

Mr. O'CONNELL. Then he would get that by accepting, as a fair price, the price based on someone else's cost.

Mr. HOOK. I am talking now about the exceptional producer. I am not talking about the group of the most efficient producers. There might be some one producer who would have a considerable advantage over the others. I don't think that is fair to take his cost as indicating what a fair price should be.

Mr. REYNDERS. Another way to look at it, Mr. Hook, is that the most efficient producer, in respect of equipment and geography, would wish to receive a reasonable profit.

Mr. HOOK. That is right.

Mr. REYNDERS. And the less efficient would receive less than a reasonable profit. That is another way to look at it.

Mr. HOOK. Then you get back to what is a reasonable profit.

Mr. REYNDERS. You can put it down as five, six, or seven dollars a ton.

Mr. HOOK. I am perfectly willing to express my personal opinion on it.

Mr. REYNDERS. I mean, it doesn't follow that because you have sat down to discuss costs, that you arrive at a figure which would give the less efficient a reasonable profit.

Mr. HOOK. No, indeed.

Mr. REYNDERS. That is what I am trying to bring out.

Mr. HOOK. No, sir.

Mr. REYNDERS. The most efficient may get a reasonable profit, but the less efficient would be apt to get what would be generally considered as less than a reasonable profit on their investment.

Mr. HOOK. That is right.

Mr. O'CONNELL. Well, I still don't know whose costs this fair price would be determined by. You say it won't be determined by the most efficient producer, you don't think it would be reasonable to expect the industry to determine it on the least efficient. Do you suppose it would be a norm, something along the middle?

Mr. HOOK. I think it would be above the middle, sir.

Mr. O'CONNELL. Above the middle?

Mr. HOOK. Above the middle. I think it would be an average of the most efficient producers, of the group of most efficient producers. This is all theory, you know. What I am trying to say to you is this, particularly, that from my own experience and my knowledge of business men in America, a proper consultation without agreement, in which no obligation rests to agree—in fact, with a prohibition as to agreement, but a fair discussion of all the factors that enter into costs, is, in effect, a thing to be desired, and is not against the public interest.

Mr. O'Connell. Of course, I realize that, under the existing laws that we have here, the devices in agreements which have the effect of restraining trade, and so forth. Broadly speaking, it seems to me from the point of view of the public interest, anything short of agreement which has the same economic results is just as much to be discouraged.

Mr. Hook. Let me see if I can clear up in your mind what you don't quite get clear with respect to what I am trying to say. I hadn't brought this into it yet. This was the point. We talk about purchasing power in this country a great deal. Now, we are apt to forget that management has an obligation, a very, very definite obligation, to the investors who have put money in its hands—they really have loaned management this money, expecting them to use it properly and effectively to return them, that is to the investors, wages, call it income or dividends, or call it what you like.

Certainly, the purchasing power of the investor—just think of the millions of them that we have who invested their savings in industry—has been seriously affected in the past few years due to the fact that they have had no income with which to buy things and carry on the circle, and sometimes I think that has been due to the lack of understanding on the part of certain parts in management with respect to these items of cost which they have ignored. I think to some extent that has happened, but I think management has an obligation to secure for its product in the more efficient units certainly sufficient to give a reasonable return.

We are always talking about that reasonable return. What is it? It is an indefinite sum that I think certainly if we are properly financed, and we have no overcapitalization—I am assuming all those things—that we ought to earn 10 percent on our common stock and surplus, that is the common-stock holders' equity, and if you reserve 5 percent of it for reinvestment in the plant and you distribute 5 percent of those earnings to the investors, that certainly is not an unreasonable amount. That seems to me a minimum that we ought to aim at because in periods such as we have gone through in which we have these very heavy losses as we have had in the steel industry, working capital has been depleted, we have got some way or other at some time to have a chance to make that up and get some of it back. You have taken it out of your savings and you want to build those savings up again. Industry has savings, its surplus is savings just as we individuals have to build up a bank of savings if we want to get any place.

Mr. O'Connell. I have no difficulty on the question of what the obligation of management might be and we possibly are not out of accord at all, but I don't understand that under our system capital as such has any right to a particular return.

Mr. Hook. No——

Mr. O'Connell (interposing). I mean it depends upon the management to some extent. I think it would be nice, I think it would be fine if we could all get 10 percent.

Mr. Hook. I say we ought to aim at that.

Mr. O'Connell. Whether or not you get it depends upon, or should depend upon, the ability of the managers of that money to compete with other managers, other capital, for return.

Mr. HOOK. Right there, would you mind if I just took a figure here which I would like to present to you to illustrate what concerns me and why I think at times due to lack of understanding—I don't say misunderstanding, a lack of understanding—we reach prices which are too low. I have here the earnings of each of the 10 larger companies in the steel industry, starting with '29 through '38, and I was interested to see what during that period they earned on the stockholders', the common-stock holders' investment, that is, on the common stock and surplus. Now it varied with companies of course, but none of them earned, even the most efficient here, those two companies that have had the highest earnings during that period earned for the period from 1929 to and including '38, the one, 8.63 percent and the other 7.29 percent. We earned 2.33 during that same period. Another very large unit earned 0.62 percent. Another lost 0.233 percent. Another lost 0.381 percent. Another one, a large unit, lost 0.308 percent. The largest unit, 0.49 percent; another lost 0.153 percent; another made 0.115. The average of 8 of those 10 companies from whom we could get accurate figures so there would be no question of these figures was an earning of 0.66 percent during that 10-year period. Drop out 1929 because it was in that other 10-year period, just drop it out for the moment, and take the 9-year period, 1930 to 1938, and the average of the 9 companies was a loss of 0.23 percent on the stockholders' investment. With a big industry such as the steel industry, with its enormous investment per ton of product and per man employed—as you know, for instance in our branch of the industry we have got to invest $11,000 per man before we can go into the business. It may be lower in some of the divisions of the industry, but the average investment would certainly be somewhere around $9,000 or $9,500 per man employed. Where are you going to get this money? Well, unless you make an earning record, unless the industry can earn enough to encourage people to put their savings into it, you are going to stop the advance of the industry.

Mr. O'CONNELL. We are all in accord that it is desirable for industry to make money. I was merely querying what you suggested as regards price would be calculated on the one hand to produce the result that you want and on the other hand to protect the system that I understand we all want to keep and to protect the interests of the general public. You think it is calculated to do both. I am sure it is calculated to do one, I am not so sure it is calculated to do the other.

Mr. HOOK. Well, I base my opinion, which is a personal opinion, simply on my experience and the operation of the American economic system.

Mr. O'CONNELL. You have the advantage of me there.

Acting Chairman WILLIAMS. What do you think that very small return there, perhaps loss in the last 9 years, is due to in the steel industry? That is a rather unusual thing, isn't it, to have a loss over the entire industry for a period of 9 years?

Mr. HOOK. I am afraid maybe you wouldn't agree with some of the reasons that I might put forth.

Mr. O'CONNELL. Would you have any objection to having that tabulation from which you just read put in the record?

Mr. HOOK. No; not at all; in fact, I would be very glad to have it in the record.

Mr. O'CONNELL. Have you any objection for that to go in?

Mr. FELLER. No.

Acting Chairman WILLIAMS. It may be received.

(The tabulation referred to was marked "Exhibit No. 1426," and is included in the appendix on p. 11001.)

Mr. HOOK. Of course you had a low volume of general business.

Acting Chairman WILLIAMS. I understand that, but independent of that. I don't believe you find over the general field a loss, or would you generally, in the industry field?

Mr. HOOK. We are in the capital-goods industry.

Acting Chairman WILLIAMS. I didn't intend to get into a full general discussion of that entire field. I was just wondering if you had something specific as a reason for that rather unusual situation.

Mr. HOOK. Making a general statement, I say there has not been the encouragement to the private and corporate investor to expand in the capital-goods field for a number of reasons. I think one of them is that there are certain provisions of the Securities andExchange Act which I think have made industry hesitate to go ahead, that is directors and officers.[1] I think very definitely that the manner in which the National Labor Relations Act, for instance, has been administered has had a very definite deterrent effect. I think that the fear of Government competition as a result of the attitude, for instance in one field, public utilities, has had an effect; we don't know how far that might be expanded, and there has been the fear there, so that there are any number of things which I feel have affected the flow of capital into production and trade. I have here, for instance, a chart showing industrial production starting in '26. We often use that as a base. If you will notice, the line of consumer goods production and the line of capital goods production parallel each other up there to 1930. Then we had this big drop in '31.

This is the line of capital goods, and here is your line of consumer goods, so there is a great vacuum in here as between the relationship; there is a big difference in the relationship between capital goods and consumer goods during this period. I was interested to find out what happened to capital financing. If you will take the curve showing capital financing during that same period you will see that there is a big vacuum, as I like to call it, or still that wide divergence between industrial production and new capital financing, in other words your new capital financing and your capital goods production followed along; if you put one on top of the other, they pretty nearly match. To me that shows that the private and corporate investor did not have the confidence that was essential to the production of capital goods. He didn't want to take the chance, the risk, as he wasn't getting any return.

Mr. O'CONNELL. Mr. Hook, when Mr. Weir was on the stand[2] he testified as regards the steel industry in two particulars that rather surprise me in connection with what you have had to say, and one was that something over a billion dollars of new capital had been

[1] In an explanatory note subsequent to his testimony Mr. Hook stated: "I had reference to the Securities Act of 1933, not to the Securities Exchange Act of 1934. The latter does not affect new financing as does the former.—C. R. H.

[2] Mr. Weir's testimony appears in Hearings, Part 19.

put into the steel industry within this period to which you are referring on the one hand.

Mr. Hook. Right.

Mr. O'Connell. And he also testified that the industry in terms of its capital equipment and ability to produce and all that sort of thing was better than it ever was before.

Mr. Hook. Correct.

Mr. O'Connell. That wouldn't indicate there was any real shortage in available capital.

Mr. Hook. There is a very definite explanation and I am glad you asked me that question because during the period of 1920 to 1929, inclusive, we will say, when the manufacturing industry was making a reasonable profit, the investor felt he had a chance for a return on his investment. Well, we had a record in the steel industry of earnings which wasn't large by any means. That is shown by the records we have here of earnings in the industry, for 1920 to 1928; it was only 5.1 percent on the total investment in the industry, but yet there was an earning record there. Therefore, in the early part of the depression the industry still had borrowing power. As you go along and if we don't get to the point where this industry can make better earnings than it has shown in the last several years, then we will have our hands full trying to get anybody to put their savings into our industry for technological development. Furthermore, a large part, and I said in my opening statement approximately $500,000,000 during this last 10 years, has been put into these new continuous mill plants. Well, if a process is developed with one or two units going into it they simply force out the inefficient units, therefore $200,000,000 of capital went into the wastebasket in the form of those old steel mills, and to build one mill Mr. Weir testified to the fact that their one mill at Detroit cost $25,000,000. Am I correct in that? He testified to that effect, so you see one of these units costs a lot of money.

Acting Chairman Williams. Have you any idea what the capital structure of the steel industry is?

Mr. Hook. What do you mean "the capital structure"?

Acting Chairman Williams. The capital invested in it.

Mr. Hook. It is here in the report, Mr. Williams.

Mr. Avildsen. I think it is about $4,000,000,000.

Mr. Hook. That is about right.

Acting Chairman Williams. Is there any feeling anywhere that that capital structure is too heavy, in other words that the investment is so large that it is very difficult to obtain a reasonable return on that investment?

Mr. Hook. No; not if we have reasonable operating conditions we ought to be able to handle it.

Acting Chairman Williams. The fact remains that you have not done it in the last 10 years.

Mr. Hook. The investment per ton of capacity is not high.

Mr. Feller. Mr. Hook, I think perhaps I might point this out, that in connection with your answer to the chairman as to the reason for the profit showing of the industry over the 10-year period, '30 to '39, that some of the forces to which you refer have not been in operation over the whole of that period. The Securities and Exchange Act, for example, began to operate in 1934, about midway of the

period. The National Labor Relations Act began to operate about 1936, really in 1937 after the decision of the Supreme Court. So the forces that you are referring to have operated over about half of the period. Taking that half of the period, say 4 or 5 years, the industry did make a profit in 1937, one of those years, and apparently is going to make a profit in another one of those years, 1939. I merely make that observation and point out that perhaps the explanation must also be sought in some other factors.

Mr. HOOK. Well, I want to call your attention to the fact, too, sir, that the spring of 1937 was when we had the greatest upset in industrial relations in this country that I have ever seen in the history of the country and I think it had a very serious effect in stopping that increase in general production which had started. Going back to the earlier period it is my very definite opinion that the depression which began in, say, '30, the late fall of '29, would have come to an end far sooner if some of these restrictions on management had not been instituted.

Mr. FELLER. Of course that is a matter which I think none of us are perhaps fully competent to decide upon. A question of what would have happened is something else.

Mr. HOOK. As long as you have asked me that question I just want to call your attention to a chart here. I made a statement in the beginning of this year which I am perfectly willing to restate. Right along that line, on the first of this year, several papers asked me to make a statement with respect to what I thought of 1939. I made this statement [reading]:

There is a great accumulated need for the things that sustain and will improve our standard of living. This statement is verified when we chart the statistics showing industrial production and separate consumer goods and capital goods, using 1926 as a base—or 100. It is remarkable how closely the production of consumer goods and capital goods parallel each other in the years 1926 to 1929, inclusive. But from the middle of 1930 to the present time the lines have drawn widely apart. This shows conclusively that the great deficit in employment is the result of the deficit in capital-goods production.

And if we plot upon the same chart the statistics showing new capital financing for the years 1921 to 1929, inclusive, an amazing deficit in new capital financing for the period 1931–1938, inclusive, is clearly portrayed.

It is obvious from such an analysis that unemployment will continue to be severe until there is a flow of savings into capital goods through new capital financing.

Mr. Walter Lippmann in his article of December 22nd says: "We have so much unused capital that the Government has just borrowed $100,000,000 for three months at practically no interest whatever."

It is my firm conviction that the accumulated need will be converted into demand, and corporate and private savings will flow into production and trade with the resulting transfer of employable men and women from Government relief rolls, supported by taxation, to the payrolls of private industry, when confidence is restored—by assuring corporate management and private investors that the following things will be done:

1—Action by Congress to establish a sound and fair labor relations policy. The disturbed labor relations which have existed during the past few years have been a major obstacle to recovery.

2—Assurance that there will be a halt to the growing tendency to employ the taxing power for regulatory rather than for revenue purposes. Because the federal income tax law has been made so complicated that it is almost unworkable, a commission of qualified legislators and informed laymen should be appointed to study the entire field of taxation. In my opinion, broadening the base is one of the most helpful things that could be done at this time.

May I say there, Mr. Chairman, that it is very encouraging, I am sure, to industry as a whole and certainly has been to me to see the very constructive manner in which Mr. Hanes, acting for the Treasury Department, has invited industrial management and others to confer informally with respect to what might be done to help our whole tax structure. That is the kind of cooperation that I have tried to indicate that I thought was very desirable and very helpful. [Continues reading:]

3. Elimination of government competition with private enterprise, and where such competition exists that the government be compelled to conduct its business by making the same charges to the cost sheet which private enterprise is required to make. There is nothing more unfair than to tax private enterprise and use these funds to put private enterprise out of business.

Mr. O'Connell. I take it you are referring at least to some extent to T. V. A., and it might be proper—you might not know this—that T. V. A. at least has, as I understand it, recommended to Congress that it be required to pay taxes to the areas in which it is operating, along the same basis that privately owned public utility companies would be doing. That is just as an interpolation.

Mr. Hook. I think they ought to be charged interest if it is necessary to borrow from the public to make the capital investment, just the same as private industry would have to do, otherwise you have a fallacious cost. [Continuing to read:]

4. Indicate to the public that the same efficiency, ethics and expenditure control expected and demanded of private enterprise will be the policy of government in its operations.

I am encouraged to believe that the leaders in government are desirous of inaugurating such a program. Therefore, I am optimistic with respect to a continuing increase during the year 1939 in the payrolls of private enterprise.

I read that because I have in front of me a chart showing industrial production. I go back to May 1 and I find, using the Standard Statistics Co.'s composite index of industrial production, that it stood at 83 and that there is a constant rise, as you will see, from May 1 at which time it is my opinion that corporate and private investors' confidence began to build up as a result of certain things which I enumerated way back the first of the year would be done. Several of them have been done. We have, for instance, a committee that has been appointed to investigate the operation of and the administration of the National Labor Relations Act. We have the Treasury Department taking a very constructive attitude and giving us an opportunity to present to them their viewpoint. Private and corporate investors were very much encouraged by congressional action with respect to the spend-lend program. I could go through several other things which I personally think were responsible for a changed attitude on the part of corporate and private investors in building the confidence which is essential to encourage the flow of savings into production and trade, and war or no war, we would have had an excellent general business volume, certainly up to the first of the year, because it shows from May 1, it rose from 83 to, on September 1, almost 100—98.

Acting Chairman Williams. Do you think there ought to be an increased expansion of industrial production capacity?

Mr. Hook. I think in certain fields, Mr. Williams.

Acting Chairman Williams. Isn't it a fact that that capacity hasn't been used that they have, 25 percent maybe, 50 percent at the outside?

Mr. HOOK. Some of it needs going over, just as in our own industry we chucked into the wastebasket some two hundred millions in old mills and built more efficient products which have meant a lower price to the public, a better product and increased earnings.

Acting Chairman WILLIAMS. You have done that largely out of internal financing, haven't you?

Mr. HOOK. We had to borrow a good deal of money to do that ourselves.

Acting Chairman WILLIAMS. The evidence, I believe, during the last few years is that the amount furnished from internal sources is about half of the new capital invested.

Mr. HOOK. Yes, I think that is a very excellent program if we can follow it.

Acting Chairman WILLIAMS. Don't you think it is a rather dangerous policy to enter upon an overproduction capacity during a period of boom, and we will have just what we had following the other boom when it is over with, if it is created? We can't hope, can we, to have a production capacity running full, 100 percent?

Mr. HOOK. All the time; no.

Acting Chairman WILLIAMS. That never has been true, has it?

Mr. HOOK. No, but what I am talking about——

Acting Chairman WILLIAMS (interposing). There is a question in my mind whether it won't create that very thing, whether or not we are not already expanding industrially sufficient in view of the fact that the capacity is not being and has not been used.

Mr. HOOK. Maybe I can explain what I mean by saying this to you, Mr. Williams. When we just had these old mills, for instance—this is something that I know something about—there were periods of time when they said, "Well, you have got too much capacity." We weren't selling it then, but we did go ahead and find a method whereby we could make a better product at a lower price which encouraged the use of the product for purposes for which it could not have been used prior to that time. In other words, it increased volume, because not only was there a reduction in price, but the quality of the product was improved, making it possible to use it for things that it could not be used for before, and that is what has made America what it is. In other words, although we have equipment which may apparently not be running to capacity, the reason that it isn't running to capacity possibly is that it is not as efficient as it ought to be, and a lot of the capital which has been invested in equipment over the years today needs revamping, a lot of it ought to go out the window and would go out the window and more efficient methods of production which would bring about better products at lower cost would result from this new capital investment and investors would be perfectly willing to take a chance on that if they thought they were going to get a return on their investment.

Acting Chairman WILLIAMS. Any further questions? If not, we thank you very much.

Mr. AVILDSEN. Excuse me. I wanted to ask a question.

Mr. FELLER. I understand some of the members of the Committee wanted to ask some questions after recess.

Mr. AVILDSEN. I had only one question.

Acting Chairman WILLIAMS. Have you any, Mr. Feller?

Mr. AVILDSEN. I had only one question, Mr. Hook, and that was regarding the subject you were talking about Friday afternoon when we adjourned, namely, the matter of how much labor was required to produce these sheets by the continuous process as compared with the hand process, and I don't think it was entirely clear to all the members of the committee just how you could bring about so great a reduction in the cost in those sheets with no substantial reduction in the number of men employed in making them. Do you think you could clear that up for us?

Mr. HOOK. I was thinking of that over the weekend and I can read this statement in a couple of minutes. Maybe it will be clearer to do so rather than attempt a long explanation. [Reading:]

With regard to the figures given as to number of men employed per 100 tons of product, the increased rates of wages and the reduced selling prices for sheets made by the continuous process, there seemed to be some confusion in the minds of some of the members of the committee, and if I may I would like to elucidate further and hope to make it perfectly clear.

The old hand sheet-rolling process produced sheets from seven to ten feet long, slightly irregular in length necessarily from the process, and allowances made in the width for irregularities of the rolls. In the new process, the sheets are made in coils thousands of feet in length, coils weighing 10,000 to 12,000 pounds, and very close to required size in width. Obviously to everyone there is a great saving in the waste that was the previous practice from the two ends of the sheets alone.

Then, in the old process, the material was heated at least four times and now but once. Heating steel always causes an oxide to form, which is a direct loss, and further, the oxide is frequently rolled into the sheet, spoiling it, another source of waste.

To still further increase the previous expense this oxide must be removed by sulphuric acid, which is not easy to handle, not easy on the men, and expensive—so there is another saving there. Further, in rolling these long strips the temperature is kept more uniform and high pressure, 1,000 to 1,500 pounds, water sprays are used to keep the surface clean, so that there results an internal structure much improved and very much more uniform, requiring fewer sheets to be thrown out by the inspectors, both for this reason and that of a better surface secured by this new technological method.

Uniformity of internal structure permits annealing to be done much more accurately, for the internal structure of a sheet is very delicate at the red hot or annealing temperature, and in the old hand-finished sheets a variation of several hundred degrees was frequent, so that some sheets would be properly annealed or heat treated and some would not, and this results in much less waste.

So it is all of these factors that enter into the simple array of figures that I read to you Friday, and I trust this matter is now thoroughly explained.

There was one point that I think you had in mind with respect to the number of men per hundred tons of shipment. I am just thinking now of one of several places, for instance, where you will have, we will say, two furnaces, or one furnace doing open annealing. This was a long furnace with a chain in it and it has to be loaded on one end and has to be unloaded on the other. You have a certain number of men to handle that particular part of the process. Now that furnace is capable of maybe handling your capacity up to 65 percent or 75 percent. Whether you run at 50 percent or whether you run at 75 percent you have got to have that crew there, so when you are running at 75 percent your number of men used per hundred tons of output of course is reduced considerably and that shows on the report. I gave Mr. Williams a copy of it and Mr. Feller has a copy of it, and I think you have a copy of it, Mr. Avildsen. That accounts for the variation in the number of men per hundred tons of shipment in those several years. When you get

to the top of production and you are making a million tons, then you are using your labor most effectively and the capacity of the furnace is used with the same number of men.

Mr. AVILDSEN. That clears up the matter so far as I am concerned. I have no other questions.

Mr. FELLER. I should like to ask just one question in connection with your answer to the chairman as to where the responsibility for the poor showing of the industry lies. You recall Mr. Weir's statement when he appeared before this committee and in the speech to which reference has been made and which is in the record, that the trouble with the industry was that management had not been profit-minded. Do you agree with Mr. Weir on that?

Mr. HOOK. I think Mr. Weir was justified in criticizing management to the extent he did, absolutely. He was justified in criticizing management for permitting prices to get so low with respect to cost that it encouraged losses, which of course the industry shows.

Mr. FELLER. Do you think if management had been profit-minded the result would have been different?

Mr. HOOK. Well, I think it would have been better if management had probably had a little more courage to withstand the pressure on the part of the buyer for prices which are out of line with respect to cost. Right there, in talking about the steel industry I am very glad to note that in the statement which you prepared, Mr. Feller. I want to compliment you because you made this statement: [1]

> In an economic analysis of price and distribution characteristics, however, this definition is inadequate for it comprehends a wide range of products which differ fundamentally from each other in value per unit and therefore in economic mobility, in scale and technic of production in the geographical dispersion of consuming areas with relation to centers of production, in size and geographic concentration of customers, in the availability of potential substitutes for a given use and in methods of distribution employed, although most steel is tailor-made to exact specifications within narrow limits of tolerance, and therefore it is almost completely homogeneous for any given specification, irrespective of source. Multiplicity of product characteristics requires a break-down of the iron and steel industry into almost as many industries as there are products.

And in Mr. Thurman Arnold's statement at the opening of the hearings of this committee he says: [2]

> It was therefore with considerable gratification that the Department noted some weeks ago the decision of the major units of the industry to confirm existing published prices to the end of the current year. I do not pass judgment at this time on the problems which will beset the industry in the coming difficult months but I confidently trust that the patriotic spirit which prompted that decision will continue to rule the industry decisions in the future.

I want to say to you that I agree with that completely, but you have got to differentiate between products in the industry. For instance, in the industry with which I happen to be connected we have had very low prices, and reference was made some place during the discussion, I think by one of your experts, to the fact, for instance, that two companies in the industry in the third quarter had earnings relatively low; one was the Otis Steel Co. Now the Otis Steel Co.'s production is mostly sheets and the American Rolling Mill Co.'s production is mostly sheets, and it is in that line where there has been a very severe competition and very low prices. Therefore, the in-

[1] See "Exhibit No. 1349", included in Hearings, Part 18, appendix, p. 10391.
[2] See Hearings, Part 18.

dustry must not be considered unpatriotic if, because of the increase in cost of raw materials, for instance in scrap, on our coated sheets in zinc and the other items that go into our cost, we find it necessary, and I think it is necessary in the interest of everybody, that prices in that particular branch of the industry be advanced to some extent in order to get a reasonable return, at least get your costs. Many of the products in that industry have not only been sold in some instances below total cost but below material and labor. That certainly is unsound economically.

Mr. Feller. Mr. Chairman, I have nothing further.

Acting Chairman Williams. I wonder if you would be available immediately after recess, Mr. Hook.

Mr. Hook. Yes, sir.

Acting Chairman Williams. It may be some of the members of the committee who have not been able to be here this morning may want to interrogate you somewhat.

Mr. Hook. I will be very glad to be here, sir.

Acting Chairman Williams. If you will come back at that time the committee will stand in recess until 2:15.

(Whereupon, at 12:25 o'clock, a recess was taken until 2:15 p. m. of the same day.)

AFTERNOON SESSION

Whereupon after the noon recess the committee resumed at 2:25 p. m

Acting Chairman Williams. The committee will be in order, please.

Mr. Feller. I should like to call Mr. Roberts, Mr. Gibson, Mr. Schaefer, Mr. Strickland.

Acting Chairman Williams. Will you be sworn? Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

(The four witnesses said, "I do.")

TESTIMONY OF CHARLES H. ROBERTS, GENERAL SALES MANAGER, AND FRANCIS H. GIBSON, DISTRICT SALES MANAGER, SOUTH CHESTER TUBE CO., CHESTER, PA.; OSCAR I. STRICKLAND, MANAGER, TUBULAR PRODUCTS DIVISION, AND HENRY E. SCHAEFER, ASSISTANT MANAGER, TUBULAR PRODUCTS DIVISION, WHEELING STEEL CORPORATION, WHEELING, W. VA.

Mr. Feller. Mr. Gibson, will you state for the committee your ull name and the company with which you are connected?

Mr. Gibson. Francis H. Gibson.

Mr. Feller. And you are connected with the South Chester Tube Co.?

Mr. Gibson. That is correct.

Mr. Roberts. Charles H. Roberts, South Chester Tube Co.

Mr. Schaefer. Henry E. Schaefer, Wheeling Steel Corporation.

Mr. Strickland. Oscar I. Strickland, Wheeling Steel Corporation.

Mr. Feller. Mr. Chairman, I would first like to make a general statement with respect to the testimony which will follow. The committee will recall the general course of the hearings; you will note

that after testimony had been taken with respect to iron ore, various officials of major steel companies have been called to testify with respect to general price policy of steel pricing as a whole. During that testimony we also elucidated the facts with respect to the pricing of one particular product group, tin plate.

We will now bring out various facts relating to the pricing and the competitive situation in another group of products, namely, tubular products, and particularly as related to those classes of tubular products which are sold in what is known as the oil country. Oil-country goods are those tubular products which are used for casing and the drilling of wells, line pipe, and various other forms of tubes which are used for conveying oil products. I am going to ask my associate, Mr. John W. Porter, to conduct most of the questioning along this line.

Before the testimony commences I should like to make two statements for the record. First, a number of documents will be produced here which were taken from the files of the South Chester Tube Co. Each of these documents bears stamped on its face the following legend:

> Possession and use of this photostat by U. S. Government subject to conditions named by imprint on reverse side.

This stamp was placed upon it by the South Chester Tube Co. On the reverse side of each document appears this legend:

> This photostat has been furnished by the South Chester Tube Company to the Temporary National Economic Committee under a subpoena duces tecum, issued under the authority contained in Section 5 of Public Resolution No. 114, 75th Congress. The South Chester Tube Company reserves the right to question the validity of the issue of said subpoena, the validity of the law under which the committee is working, and issuing such subpoenas, and reserves all of its rights under the Constitution and laws of the United States. The company, its officers, directors, stockholders, and employees claim immunity under Section 79R and E15, U. S. C. 59, Stat. 301, or any other law which grants same.

That is the end of the legend as it appears on these documents.

I have also been asked by counsel for the South Chester Tube Co. to state that the witnesses and the company formally claim such immunity as they are entitled to under existing law. Mr. Porter will now examine.

Mr. Porter. Mr. Roberts, what is your position with the South Chester Tube Co.?

Mr. Roberts. General sales manager.

Mr. Porter. And what is the business of your company, generally speaking?

TUBULAR PRODUCTS

Mr. Roberts. We manufacture lap-welded tubular goods, about 80 percent of which is made for the oil country, for drilling and production of oil. The balance is miscellaneous material made up of so-called merchant pipe and line pipe.

Mr. Porter. Does the South Chester Tube Co. make any steel?

Mr. Roberts. Manufacture the steel?

Mr. Porter. Yes.

Mr. Roberts. No.

Mr. Porter. What is the material from which the South Chester Tube Co. manufactures its tubular products?

Mr. ROBERTS. It is known in the trade as skelp.

Mr. PORTER. Would you describe briefly for the information of the committee what sort of a product skelp is?

Mr. ROBERTS. It looks like a plate, usually manufactured in fairly large tonnages of a given thickness and width and of uniform length. It is given the name skelp, as I understand it, because it is classified as a semifinished product.

Mr. PORTER. In other words, then, skelp is in all superficial respects similar to steel plate, but it is the raw material from which certain types at least of tubular products are manufactured. Is that correct?

Mr. ROBERTS. That is right.

Mr. PORTER. Now as I understand it, you yourself manufacture none of this skelp?

Mr. ROBERTS. That is right. We purchase all of it.

Mr. PORTER. You purchase all of that?

Mr. ROBERTS. Yes.

Mr. PORTER. From what types of companies does the South Chester Tube Co. purchase its skelp?

Mr. ROBERTS. Well, we purchase it from so-called integrated mills in our neighborhood, large companies, the Bethlehem Steel, Lukens Steel, and mills of that type.

Mr. PORTER. Will you state, Mr. Roberts, whether or not most or all of the companies from whom your company purchases skelp themselves manufacture tubular products of some kind or another?

Mr. ROBERTS. Two of them do not.

Mr. PORTER. Two of them do not, and the rest, I take it then, do?

Mr. ROBERTS. Yes.

Mr. PORTER. In view of the fact, Mr. Chairman, that at various points during the testimony reference has been made to the question of the relationship between the price of semifinished steel products and the prices of a finished product made from those semifinished articles, I would like to direct one or two more questions along this line to Mr. Roberts.

Acting Chairman WILLIAMS. In order that we might have this question of immunity thoroughly understood here, the question has been asked as to what this immunity applies. It is not understood that it is to all the testimony, is it? Should these individuals' objections and immunities be made as we proceed, or is it applied only to the documentary evidence to be introduced?

Mr. FELLER. I take it, Mr. Chairman, that the immunity which is claimed can only be whatever immunity is provided by the statute under which this committee is operating.

Acting Chairman WILLIAMS. Whether or not they have to claim that immunity and it is applied to each individual question that they want to apply it to.

Mr. O'CONNELL. Mr. Feller, as I understand the law under which we operate, it is generally to the effect that any witness may refuse to answer a question propounded to him on the grounds that to answer the question would tend to incriminate him. At that point, as I understand it, the committee would then have the option of either requiring him to answer the question, in which event he would be immune from prosecution, or deciding that they would prefer not to have the question answered. Now is it your thought that that is the way we would operate? That is, when a particular question which in the mind of the witness or their counsel might tend to in-

criminate them was asked, that they would decline to answer unless granted immunity, or is it your thought that they have now been given blanket immunity from anything they may hereafter say?

Mr. FELLER. Well, I merely made this statement at the request of the counsel; as to whether or not counsel desires that the matter be put beyond whatever question may appear in his mind by making a specific claim on specific questions, I think is up to witnesses and their counsel.

Mr. O'CONNELL. So far the committee has not granted any immunity to anyone as regards these witnesses.

Mr. FELLER. So far no one has made a claim of immunity as to any legal consequence which follows from that. I think it would be beyond the bounds of my function at this time to make any statement in respect to that.

STATEMENT OF GEORGE W. WITNEY, COUNSEL, SOUTH CHESTER TUBE CO.

Mr. WITNEY. The question that we raise here is as to the method that was used in securing the information which will probably be disclosed this afternoon.

As you probably realize, representatives of your committee were sent to the offices of the South Chester Tube Co. They made a general examination of all the files of the company and extracted therefrom some perhaps 200 letters. They desired to take the original letters and copies. We gave them photostats. It is questionable in my mind as to whether or not the committee have a right to disclose the information in detail that was acquired in that manner.

Acting Chairman WILLIAMS. Then you are claiming immunity only as to the documentary evidence that may be offered?

Mr. WITNEY. As the witnesses disclose that documentary evidence, and I should think they should be allowed immunity as to any questions that are raised by the documents.

Acting Chairman WILLIAMS. As we proceed, it will be their privilege to claim immunity.

Mr. WITNEY. I should like to claim immunity as to any of the documents that are raised in that particular manner.

Mr. FRANK. Would that be a basis for immunity? I had assumed a claim for immunity to arise as a result of the witness raising an objection that if he were forced to answer, he would be incriminating himself. I hadn't supposed it would arise on an alleged claim that documentary evidence was procured improperly.

Mr. WITNEY. My understanding of the situation is that it may not be necessary at all, but what I am trying to prevent is something being developed in this questioning which may lead people to think that either of these companies were doing something that was illegal. The information that you acquired and the manner that you did, I think, are open to question. All I am trying to do is to establish immunity for the material that may be produced here on the questions that may be raised and the answers given by the men here.

Acting Chairman WILLIAMS. As I understand it, you already have claimed immunity for the introduction of any of these documentary papers that may be introduced, and it seems to me the only regular procedure will be to claim that immunity so far as the oral testimony is produced when the questions are raised.

Mr. WITNEY. If you would rather have me do it specifically, I shall be glad to do it that way.

Mr. O'CONNELL. I think it would be more proper to claim it as the question arises, which seems to you or to your witness the sort that might incriminate them.

Acting Chairman WILLIAMS. Proceed.

Mr. PORTER. Mr. Roberts, we were talking in a general way about the nature of the business of the South Chester Tube Co., and have brought out that it is a manufacturer of a finished product which it manufactures from a semifinished product known as skelp. You had also testified that that semifinished product, skelp, is purchased by your company from integrated producers, among others, who not only manufacture the skelp but also produce tubular products which they sell in the same markets which your own products enter. That is a fair statement, is it not?

Mr. ROBERTS. That is true.

Mr. PORTER. As a purchaser of a semifinished product, skelp, I assume that it would be fair to say that the South Chester Tube Co., has no part other than that of a new buyer in the establishment of a price of that semifinished product. Is that correct?

Mr. ROBERTS. That is correct.

Mr. PORTER. Suppose, then, that the integrated producers of skelp from whom your company buys, should in a given case increase the price of skelp without at the same time making any advance in the price of the finished tubular product. What would be the effect of such an action upon your business?

Mr. ROBERTS. Well, there would be a reduction of the margin between the cost of the raw material and the finished product which would naturally either reduce our profits or increase our losses as the case might be.

Mr. PORTER. And the extent to which that margin was reduced would be reflected directly in the operating conditions of your business?

Mr. ROBERTS. Positively.

Mr. PORTER. Now let us take another case, again purely hypothetical. Suppose that the larger producers of tubular products should increase the price of those products, rather should reduce the price of those products without making a comparable reduction in the price of skelp. What would the effect of that be on your business?

Mr. ROBERTS. That would be the same effect as your first question.

Mr. PORTER. In other words, your margin would be reduced?

Mr. ROBERTS. Our margin would be reduced.

Mr. PORTER. So it would be fair to say, then, I take it, that the South Chester Tube Co. as a finishing company operates within the margin which exists at all times between the price of the semifinished product, which is its raw material, and the price of the finished product which it manufactures. Is that correct?

Mr. ROBERTS. That is correct.

Mr. PORTER. Does the South Chester Tube Co. have any control over the price of the tubular products which it manufactures?

Mr. ROBERTS. No; we have no control. We have to be governed entirely by competition; we try to meet that competition if it is possible.

Mr. PORTER. What is the policy of your company with respect to meeting that competition?

Mr. ROBERTS. We have to analyze all the factors in the case and decide whether it is possible to meet the competition and maintain our normal profit or at least maintain an average price that will permit us to continue operation.

Mr. PORTER. Will you state, Mr. Roberts, whether or not it is the policy of your company to sell its finished products at a price lower than what you believe to be the competitive price?

Mr. ROBERTS. You say is it possible?

Mr. PORTER. Is it your policy?

Mr. ROBERTS. No; it is not.

Mr. PORTER. Your policy, then, is to adapt your prices to what we may call the going prices in the market for your products?

Mr. ROBERTS. We of course publish base prices from time to time as market changes occur, and we attempt to adhere to those base prices as religiously as possible.

Mr. PORTER. Mr. Roberts, I should like to ask you whether the products which you manufacture, that is steel pipe and other tubular products, which go largely into the oil field for one purpose or another, are sold in the same manner as other steel products, that is, my question is: Are they sold on a delivered price basis?

Mr. ROBERTS. They usually are.

Mr. PORTER. You say "usually are." There are exceptions?

Mr. ROBERTS. There might be an occasion where a truck would come to our plant and perhaps pick up a few lengths of pipe or something of that kind. In that case they would be sold F. O. B. mill.

Mr. PORTER. Would it be fair to say that those cases normally involve small orders placed by consumers who are located nearby to your plant?

Mr. ROBERTS. Yes; that is true. It would always be small orders.

Mr. PORTER. So that in the normal course of events your products are sold on a delivered price basis?

Mr. ROBERTS. That is correct. The major part of our tonnage goes to markets that are considerably distant from the plant and we sell on the delivered prices in those cases.

Mr. PORTER. I might at this point inquire where your principal markets lie geographically speaking.

Mr. ROBERTS. In the so called midcontinent and California.

Mr. PORTER. Mr. Gibson, I think that you did not state for the record what your position with the South Chester Tube Co. is.

Mr. GIBSON. District sales manager at Pittsburgh.

Mr. PORTER. Pittsburgh, Pa.?

Mr. GIBSON. Yes, sir.

QUESTION OF SELLING PIPE F. O. B. THE MILL

Mr. PORTER. Mr. Gibson, I should like to show you a letter dated February 3, 1939, bearing your signature and your title, district sales manager, and addressed to Mr. C. H. Roberts, general sales manager, a letter on the letterhead of the South Chester Tube Co. Will you identify that?

Mr. Gibson. That is my letter.

Mr. Porter. I should like to offer this letter, Mr. Chairman, to be printed.

Acting Chairman Williams. Any objection? It will be received.

(The letter referred to was marked "Exhibit No. 1427" and is included in the appendix on p. 11005.)

Mr. Porter. I should like to read a few paragraphs from it. The letter bears a heading which reads:

> Subject: Gulf River Shipments.
>
> The devil has broken loose in the pipe district here yesterday and today due to the action of our good friend Mr. Weiss.

May I interject at that point a question, Mr. Gibson, as to the identity of Mr. Weiss?

Mr. Gibson. Purchasing department of the Gulf Oil Corporation who handles nominally tubular goods purchases.

Mr. Porter (reading further from "Exhibit No. 1427"):

> As you know, he is a pretty smart boy even though he finds it suitable for his purpose to appear very dumb at times. When the barge rates went into effect for pipe at Memphis and Houston he started to work on a proposition which came to a climax here yesterday and certainly will have wide ramifications. The Gulf, as we understand it—

and parenthetically I assume that means the Gulf Oil Co.

Mr. Gibson. I would say.

Mr. Porter (reading from "Exhibit No. 1427"):

> The Gulf, as we understand it, have purchased two barges and a small river boat. Weiss offered an order for a bargeload of seamless to Jones & Laughlin, the barge to be loaded alongside their loading docks on the Ohio River here, and also a bargeload order to Spang Chalfant under the same conditions, the pipe to be billed f. o. b. barge siding, which, as you know, takes only 2¾ cents per hundredweight switching charge in freight. When the National Tube Co. heard of this they just raised cain, and in some way or other stopped J. & L. from accepting this order and likewise Spang Chalfant. The National Tube Co. stood hard and fast by their policy that no pipe would be quoted other than f. o. b. destination or f. o. b. Houston or Memphis stock.

I should like to interrupt the reading of the letter at that point for a question or two. Mr. Gibson, the National Tube Co. is, I take it, a subsidiary of United States Steel Corporation.

Mr. Gibson. Correct.

Mr. Porter. I think it might be helpful if I summarized my understanding of the facts which this letter relates so far as I have read it. Is it correct to say that in this report you are stating that the Gulf Oil Co., through its pipe-purchasing agent, Mr. Weiss, offered to two pipe producers an order for a bargeload each of seamless steel pipe, to be delivered at the Ohio River docks, presumably near Pittsburgh, of the Gulf Oil Co., to be billed as so delivered rather than to be billed f. o. b. destination which was presumably somewhere on the lower Mississippi River? Is that correct?

Mr. Gibson. That is substantially correct; yes.

Mr. Porter. So that when you say in the last paragraph which I read that the National Tube Co. stood hard and fast by their policy that no pipe would be quoted other than f. o. b. destination, you are stating that the National Tube Co. was in effect insisting that the custom in the trade be observed. Is that correct?

Mr. Gibson. That is correct.

Mr. Porter. I should like to resume the reading of the letter:

We mentioned this matter to you on the telephone, but since then we have had about an hour and a half's session with Mr. Weiss, in which he did all the talking and we said little or nothing. He wanted to know why he could not get pipe quoted f. o. b. barge siding, provided it was their own barge. We naturally said nothing of an incriminating nature and simply stated that we could take no part in this matter whatever, as we were not on the river and therefore totally disinterested. Our reply to his question as to why no pipe mill was permitted to quote on the basis above mentioned, was that we simply stated as long as we had been in this business, we had never known of any manufacturer quoting f. o. b. mill.

Mr. Gibson, do you recall the circumstances which led you to write this letter?

Mr. Gibson. Well, in the first place we were approached to meet the same situation that the purchasing department of the Gulf were getting for the moment. We were located at tidewater, Chester, Pa., and had some $6.20 approximately per ton to get our material to the river (Pittsburgh), and I thought it very wise to report that situation to my principals at Chester.

Mr. Porter. Are there any facts which you can add to the statement in your letter in elaboration of it?

Mr. Gibson. Which particular fact?

Mr. Porter. I mean the story which you are telling in the paragraphs that I have read.

Mr. Gibson. Not of a general nature. If there are specific statements you wish elaborated upon I will be glad to do so.

Mr. Porter. What would you say has been the general policy of the industry with respect to billing on an F. O. B. mill or barge siding basis?

Mr. Gibson. It has never been the policy of the manufacturers of oil equipment goods to bill on any other, generally speaking, than an f. o. b. destination price.

Mr. Porter. Can you explain the basis of that policy?

Mr. Gibson. Yes; very easily. We have in the manufacture and sale of oil company tubular goods a particular situation which perhaps does not cover any of the other steel commodities, finished steel commodities. I can explain that in more detail by saying that the pipe manufacturer is actually responsible for the condition, so far as workmanship, quality, any imperfections, and rights to threading at the place of ultimate use of that produce which is either in the hole in the ground or laid along the ground as a pipe line. We are held to those things most drastically by the ultimate user or the purchaser of the pipe. If this were changed and purchasers were permitted to take finished pipe to their own operations by their own means of conveyance, whatever they might be, we would still by virtue of the long established policy in the industry, be held absolutely responsible for the condition of that material at destination. Therefore, by shipping in our own conveyances, whether they be steamship, barge, or by common carrier, rail, or recognized steamship lines, we have some recourse to damage in transit. I believe it is fair to say, and possibly quite logical, that if we turn the material over to the ultimate user of the material in his own conveyance, and it got to destination and was damaged, knowing the attitude of purchasers in general of almost any product, they would immediately claim that they handled that

material with excess care and so forth and while we give it every possible inspection at the mill we always find damaged pipe in transit.

If we had shipped it in our own conveyances, or by common carrier of any nature, we have a recourse to the common carrier, or if it is our own conveyance we know how it has been handled. That, I believe, is the background of the practice which has been established for a long period of time in the pipe industry as it particularly affects the oil country for keeping as much manufacturers' control over the product to its ultimate destination and use as we possibly can. It might be interesting or of value to the record to state here that on the thread elements in oil country tubular goods today we are held to a gross tolerance of six-thousandths of an inch in the most important element in the make-up of threads. You see how a very slight jar, bumping, distortion, could very readily throw those out, and it is the policy of all of the major oil companies to inspect this material at its destination, usually at well side, on the pipe skids beside the rigging, and reject it there at our expense. You not only have to accept the rejection and give credit for the material rejected, but you have to go to the field and get it back to your nearest stockyard or back to the plant in many instances, and I believe that that is rather a peculiar situation in the steel industry, as I don't know of any other product which works to such close tolerances, in which the manufacturer is responsible for its condition clear to the point of actual use.

Mr. Porter. As I understand it, then, what you are saying in effect is that, since by the custom of the trade you, the manufacturer, are held accountable for any damage or failure in the product up to the very point of use, you have felt that you should, yourselves, have access to whatever means of recourse there may be for damage occurring outside your own control.

Mr. Gibson. I am very happy that you brought in the word "failure," which is a word that is peculiarly adaptable to the oil industry. We are held to task for failures which are beyond the threaded or machined elements of the material itself, even to the body of the pipe, where on occasion it fails, and I am glad you said "failure" in there, because the mills are held to task for almost everything which results in added expense or difficulty to the oil operator in setting his string of pipe, or many other circumstances which are too numerous to go into at this time.

Mr. Porter. Now, from what you have said I would take it that you are stating cardinal reasons, from the point of view of the manufacturer's self-interest, why he himself should not sell his product on any other basis than f. o. b. destination. Can you explain for the committee why any individual manufacturer should have any interest in the method according to which any of his competitors might sell their products?

Mr. Gibson. The American way of doing business, as I have found it in the short time I have been engaged in it, is that if one manufacturer of an article—and there are very few manufacturers of oil country steel tubular goods—has made an arrangement of any kind which deviates from the accepted policy of the industry, it isn't very long until that deviation will, per se, spread to the rest of the industry.

Mr. Porter. Well, I wonder if that is true. I would assume that the purchasers would not themselves be anxious to take over a liability for damage in transit.

Mr. GIBSON. If they would, I see no reason for any mill granting them that privilege.

Mr. PORTER. So your position is exactly what on this question?

Mr. GIBSON. I believe if you can write a contract for oil country tubular goods that the manufacturer's responsibility in its entirety ceases with the physical acceptance of the material at the mill or any other point of shipment, I don't know that there would be anyone who would have any objection. I can see no basis for it.

Mr. PORTER. What is your understanding, based on your knowledge of the transactions described in this letter, Mr. Gibson, as to the reason for the Gulf Co.'s desire to purchase this pipe f. o. b. barge siding, rather than f. o. b. destination?

Mr. GIBSON. I have no reason which I could give for this record.

Mr. FELLER. Don't you think they wanted to save money?

Mr. GIBSON. That is probably the essential reason for most everything which is done in business, I would say.

Mr. FELLER. Specifically in this transaction, wouldn't it be cheaper for them to buy f. o. b. barge side?

Mr. GIBSON. Mr. Feller, I can't answer that question because I have no knowledge of how much it would cost the Gulf Co. or any other company to transport their own material to any given point.

Mr. PORTER. Assuming that they themselves own transportation facilities which might otherwise go unused, it would seem probable, would it not, that the net cost to them in the end would be less if their own facilities were used for the delivery?

Mr. GIBSON. If they had their own facilities and they were going unused, I would believe it would be logical to assume that they wouldn't need the facilities, possibly.

Mr. PORTER. You will recall that the letter states at one point that the Gulf Co. have purchased two barges and a small river boat. I don't know that it is fair to infer from that statement that that purchase was made with a view to the use of these barges in the transportation of pipe from Pittsburgh to the lower Mississippi ports, but at least these barges might have been used in this instance, isn't that so?

Mr. GIBSON. They might have been used in this instance, and they might not have been purchased. I don't have anything to substantiate that statement.

Mr. PORTER. I should like to call your attention specifically to a paragraph which I read before. It reads in part:

> We mentioned this matter to you on the telphone—

That is, these transactions which we have been talking about—

> but since then we have had about an hour and a half's session with Mr. Weiss, in which he did all the talking and we said little or nothing. He wanted to know why he could not get pipe quoted f. o. b. barge siding, provided it was their own barge. We naturally said nothing of an incriminating nature, and simply stated that we could take no part in this matter whatever, as we were not on the river and therefore totally disinterested.

Would you tell us, Mr. Gibson, what you had in mind in making the statement, "We naturally said nothing of an incriminating nature."

Mr. GIBSON. I would say that "incriminating" was a very poor choice of words, of a word, perhaps. If I would be writing that letter, after thought, I would say "of a committing nature."

Mr. PORTER. Of a what?

Mr. GIBSON. Of a committing nature.

Mr. PORTER. Would you elaborate on that?

Mr. GIBSON. Yes; to the extent that I would not have said anything in that instance which would have committed us to any definite policy.

Mr. PORTER. And by that you mean, I take it, any policy other than that which you believe to be customary in the trade.

Mr. GIBSON. That is right.

Mr. FELLER. Did you tell Mr. Weiss how much to his advantage it was to continue to sell on this basis? You have just told us what the custom was for the purpose of insuring that the product got to the point of delivery in a good condition. Wouldn't it be greatly to his advantage to have this practice continued, since he would continue to have recourse against you for any damage?

Mr. GIBSON. Will you repeat the first part of your question, the very first sentence, please?

Mr. FELLER. Did you point out to Mr. Weiss during this conversation that this practice was greatly to his advantage in purchasing?

Mr. GIBSON. I did not point out any such facts. The letter said I remained quite silent during the entire conversation.

Mr. FELLER. Can you explain to us why Mr. Weiss was so very much exercised over the fact that he couldn't buy f. o. b. barge siding?

Mr. GIBSON. No; I can't explain any of Mr. Weiss' actions or reactions.

Mr. FELLER. Apparently you had a talk with him for an hour and a half in which he apparently complained about the fact that he couldn't buy f. o. b.

Mr. GIBSON. Yes.

Mr. FELLER. Why should he complain if it was just this technical matter about protecting the shipment while it was in transit?

Mr. GIBSON. I don't know why he should complain to me because we were totally out of the entire transaction by virtue of the fact that we could not compete or could not have put material on the river by virtue of the position of our plant.

Mr. PORTER. Would this perhaps be an explanation, Mr. Gibson? I shall read now a paragraph toward the end of the letter which I have not read before. [Reading further from "Exhibit No. 1427":]

> Weiss advised us that yesterday they had a meeting called in Mr. Bothwell's office and, present at that meeting were: Mr. Weiss of the Traffic Department of the Gulf, Mr. McConnor, Sales Manager of the National Tube Company, and the Gulf's legal staff. Dave tells us today—

Dave is Mr. Weiss?

Mr. GIBSON. That is correct.

Mr. PORTER (reading):

> that upon the opinion of their legal department they may enter suit against every mill on the river which refused to quote them f. o. b. barge siding. The Gulf's legal staff contending that the river is not controlled by the Interstate Commerce Commission, that the material is to move in their own equipment subject to their responsibility and, therefore, the action of the pipe mills was in restraint of trade.

Does that paragraph in your judgment throw any light on the reason for Mr. Weiss' concern in this matter?

Mr. GIBSON. It probably throws all of the light necessary on it from his point of view. If you note that paragraph says, "Mr. Weiss said," and has no elaboration on my part, I don't believe, does it?

Mr. Porter. I call your attention to the statement at the end of that paragraph to the effect that the Gulf had expressed willingness to assume responsibility for the transportation of the pipe. Would the customer's willingness to assume that responsibility have any bearing on your readiness to meet the customer's request as to the basis of pricing?

Mr. Gibson. I believe it would have a very definite effect. From our point of view we would be very happy if they would accept the material as their entire responsibility at shipside, for instance, where we ship on the Delaware River.

Mr. Porter. But you felt that you were not called upon to take a position in this matter because of the fact that you were not on the river side. Is that correct?

Mr. Gibson. That is quite right.

Mr. Porter. I have one other question with respect to the letter in particular, and it relates to this sentence:

> Our reply to this question—

That is Mr. Weiss' question—

> as to why no pipe mill was permitted to quote on the basis above mentioned was that we simply stated that as long as we have been in this business we have never known of any manufacturer quoting f. o. b. mill.

Would you say that the word "permitted" as you used it there was also an unfortunate choice of language?

Mr. Gibson. No, I would not. Bear in mind, please, that I am not an official of the South Chester Tube Co. Permission for doing it and permission for most of the sales people in pipe organizations or any organization that you choose who are salesmen, sales managers, anyone whom you elect, comes beyond their jurisdiction in the final analysis.

Mr. Porter. I should like you to notice, however, that the language you used suggests not so much that you were not permitted, but to quote, "that no pipe mill was permitted to quote on the basis above mentioned." What did you have in mind?

Mr. Gibson. In that instance that no pipe mill was permitted, probably it is used that we never had quoted on this basis. I don't think it was meant to cover any other organization than my own. Knowing my limitations as district sales manager I certainly wouldn't presume to take it on myself to say what the responsibilities or omissions of other district sales managers for other manufacturers were.

Mr. Porter. Mr. Schaefer and Mr. Strickland, I should like to address this question to you both and you may answer it jointly or severally. Was the Wheeling Steel Corporation approached by the Gulf Oil Co. with this order for seamless pipe to be sold f. o. b. barge siding Ohio River?

Mr. Strickland. Mr. Schaefer will answer.

Mr. Schaefer. No; no inquiry from the Gulf people for price f. o. b. river.

Mr. Porter. Did you know anything of this transaction at the time?

Mr. Schaefer. No, sir.

Mr. Porter. Is this the first you have heard of it?

Mr. Schaefer. This is the first I have heard of it.

Mr. PORTER. Mr. Chairman, I have no further questions on this particular section of these gentlemen's testimony. Do any of the committee have any question?

Mr. FRANK. I would like to ask Mr. Gibson a question. You stated that the reason that manufacturers were unwilling to quote f. o. b. mill was that the manufacturers would be liable for the condition of the goods up to the point of delivery at the point of use. Is that correct?

Mr. GIBSON. That is correct.

Mr. FRANK. This letter states, however, that Mr. Weiss had said—the letter that you have been testifying about—that he wanted to buy on the basis of the buyer's responsibility at the point of shipment, and you said under those circumstances you would have found no objection to such a transaction. Did I understand you correctly?

Mr. GIBSON. I said that our mill probably would not have had any objections.

Mr. FRANK. Then I would like to know why you began this letter by saying:

> The devil has broken loose in the pipe district here yesterday and today, due to the action of our good friend Mr. Weiss—

Why you said:

> He is a pretty smart boy, even though he finds it suitable for his purpose to appear very dumb at times—

And why you said that—

> Mr. Weiss started to work on a proposition which came to a climax here yesterday and will certainly have wide ramifications.

If he was proposing to do something which to you appeared to be innocuous from the point of view of your business, as you stated, namely, to buy f. o. b. mill with responsibility in the buyer at that point, why did you consider that his action was causing the devil to break loose, why did you consider he was very smart, and why did you think that his action would have wide ramifications?

Mr. GIBSON. May I ask that Mr. Roberts reply to that question in view of the fact that he has more first-hand knowledge about a shipment and the commitment which we were asked to take at our mill by one of the major oil companies on their oil tankers plying between Philadelphia and the Gulf coast.

Mr. FRANK. I would rather like to have you answer it first and then he can supplement it, because you were asked the previous questions and gave replies indicating that the suggestion made by Mr. Weiss was of innocuous character if the buyer was willing to take the responsibility at the point of shipment. I can't understand in view of that why you said the devil would have broken loose as a result of that innocuous suggestion.

Mr. GIBSON. I will answer that question, Mr. Frank, with permission for supplementary additions to be made by Mr. Roberts as to detail. Several years ago we were asked by one of the major oil-producing companies operating in production in the Southwest, the Gulf coast area, and who plied tankers between Philadelphia and the Southwest, Gulf ports, bringing back crude oil for refining. The same proposition was given to us. In that instance it applied to coastwise tankers rather than river barges. After very careful investi-

gation of the facilities for their handling the pipe, their racking it, which in the case of a tanker would be on deck space, and their facilities for unloading and so forth, and knowing, as every man in the pipe industry knows, that he is held responsible for his product right to the ultimate point of use, we had quite a bit of controversy with this particular company in withdrawing from that inquiry and from their proposition that we handle pipe and convey same to them to be conveyed by their own boats, and I turned it over to Mr. Roberts.

Mr. FRANK. That doesn't seem to be quite the answer to my question, because as your letter states, Mr. Weiss was proposing a proposition which did not involve the difficulty to which you have just referred. He was proposing that the buyer should take the risk of the shipment and if that was so then that difficulty to which you have just referred and to which you referred previously would have been absent.

Mr. GIBSON. May I say might have been absent.

Mr. FRANK. How could it not have been absent?

Mr. GIBSON. In the point of view of one who sells maybe, and I would say it usually is in drawing up a contract for the sale of material. You find in the preliminary discussion of a contract a lot of things where you have a very mutual meeting of minds but where the man is paying you after buying from you, and your sole reason for existing financially is by virtue of what you can sell, usually when you come around to pick up the finished contract as the purchaser has drawn it up, you find that lots of times there are lots of things in there or hidden in there which were not in the preliminary discussion, and I am afraid that you would find that in such contracts drawn by major oil companies for handling in their own equipment, that some way or other they would incorporate in there that the pipe was subject to inspection or something or other.

That is not factual, but that is the result of my experience over quite a few years in selling tubular goods.

Mr. FRANK. Well, you have indicated a full knowledge of the difficulty and I must say that I am impressed by the character of your answers with the fact that you are not, to use your own language in this letter, very dumb, and I would not think that you would be in much danger even if you are not a lawyer, even without the advice of a lawyer, of finding any such hidden clause in a contract which would involve the difficulties for you of which you were then, as you are now, very well aware.

Now you say in this letter that you made no reply to Mr. Weiss, merely saying that no pipe mill was permitted to quote on that basis. Why didn't you tell Mr. Weiss your reasons for being unwilling, the industry being unwilling, to make this kind of a contract? It must have been evident to him or if it was not, you could have easily made it evident to him, that the reason was that you feared that despite what you might put into a contract, there would be some hidden clause that would leave the seller liable for the goods at destination, rather than at mill.

Mr. GIBSON. The answer to the first part of your question, Mr. Frank, as to why I didn't speak for the industry, I didn't feel competent to speak for the pipe manufacturing industry. However, I did feel competent to speak for my own company and the very un-

pleasant situation which we had had a few years before which very frankly led me to believe that in the course of possibly a short time we might be approached with the same situation in being asked to ship on the gulf tankers to the gulf coast, because as a matter of record they do ply their own boats into Philadelphia.

Mr. Reynders. I would like to ask you one question, from the standpoint of the South Chester Tube Co., which is your immediate interest, would your markets be restricted or extended if you were quoting entirely on an f. o. b. mill basis? In other words, could you reach the gulf coast and river points or the Pacific coast with the same degree of comfort in competition with plants located in Pittsburgh, we will say?

Mr. Gibson. We could not reach the river points with any degree of comfort. In fact, the discomfort is actually $6.40 per ton differential.

Mr. Reynders. Well, speaking from the interest of your company, which is more advantageous and which would enable you to exist with fair comfort, on an f. o. b. basis or destination basis?

Mr. Gibson. Will you repeat that question, please, sir?

Mr. Reynders. In other words, from the standpoint of your own company, located on the Delaware River, would you be more able to maintain your position if you had the opportunity to bid upon a delivered basis at destination, than if you were bidding entirely f. o. b. your mill?

Mr. Gibson. With reference to the barge shipments?

Mr. Reynders. Any shipment.

Mr. Gibson. Well, that is a rather difficult question. They do not equalize themselves. That is in comparison to delivery f. o. b. destination. The mills at Pittsburgh enjoy quite a distinct freight advantage to the midcontinent, and we will define the midcontinent for the purpose of mentioning it only as Tulsa. Pittsburgh mills enjoy quite a distinct advantage in rail shipments there.

Mr. Porter. Mr. Strickland, did you state for the record your position with the Wheeling Steel Corporation? I think you didn't.

Mr. Strickland. I am the manager of the tubular products division.

Mr. Porter. Manager of the tubular products division?

Mr. Strickland. Sales manager.

Mr. Porter. And Mr. Schaefer?

Mr. Schaefer. Assistant manager of the tubular products division.

Mr. Porter. Mr. Strickland, is the Wheeling Corporation an integrated steel producer, as the term is customarily used?

Mr. Strickland. I would think so.

Mr. Porter. To be more specific, does the Wheeling Steel Corporation produce pig iron?

Mr. Strickland. Correct.

Mr. Porter. And steel?

Mr. Strickland. Correct.

Mr. Porter. And semifinished and finished steel products, is that correct?

Mr. Strickland. Yes, sir.

Mr. Porter. In the field of tubular products, what does the Wheeling Steel Corporation manufacture?

Mr. STRICKLAND. We manufacture Lapweld oil country goods and line pipe.

Mr. PORTER. What was the latter?

Mr. STRICKLAND. Line pipe. Standard pipe, both butt weld and lap weld.

Mr. PORTER. The Wheeling Steel Corporation is not a producer of seamless pipe, is that correct?

Mr. STRICKLAND. No, sir; they are not.

Mr. PORTER. Mr. Chairman, at this point I should like to read a very brief statement in the nature of a definition which has been prepared by the Department for the convenience of the committee.

Mr. STRICKLAND. May I correct myself? You asked if we produced seamless; we finish seamless and sell it as seamless pipe.

Mr. PORTER. And by that I take it you mean you buy seamless round?

Mr. STRICKLAND. Seamless shells and finish it.

Mr. PORTER. And what is the nature of the finishing process?

Mr. STRICKLAND. The threading, coupling and testing.

COMPETITION BETWEEN LAP-WELD AND SEAMLESS PIPE

Mr. PORTER. I was saying, Mr. Chairman, that the Department has prepared a very brief statement which is in the nature of a glossary, as it were, of the oil country tubular goods trade, which I think may be convenient for the committee, and I should like to read it.

Of the numerous uses of steel pipe, one of the most important is in the production and transportation of oil. Both of the two principal classes of steel pipe, welded pipe, and seamless pipe, are widely used in this field.

I might interject there a reminder to the committee of the fact that in the motion picture which was displayed at the opening of these hearings, one of the products, the manufacture of which was described, was seamless steel pipe. Welded pipe was not included.

There are three types of welded pipe; of them lapweld is the principal competitor of seamless in the oil industry.

That is correct, is it not, gentlemen?

Mr. STRICKLAND. I think we could safely assume that.

Mr. PORTER (reading further):

The competition between these two classes of products has serious economic implications. While the National Tube Company, a subsidiary of the U. S. Steel Corporation, and a few of the other largest integrated steel producers, manufacture both welded and seamless pipe, the two products are normally not produced by the same mills.

Because of its superior strength, seamless has tended to displace lapweld for casing in the drilling of oil wells. Since the two are sold at comparable prices, with only a relatively small differential in favor of lapweld, seamless has tended to some extent to replace lapweld in the general oil country market.

During years of depression this inter-product competition inevitably took sharper form. Amid the widespread secret price-cutting which followed the unprecedented fall in steel activity late in 1937 and in the first half of 1938, this competition reached its most intense stage. This background may be kept in mind for convenience in understanding the case study of oil country tubular products and their prices.

Mr. Roberts, is it fair to say that during the last half of 1937 a rather chaotic price situation developed in the market for lapweld oil country products?

Mr. Roberts. I don't recall any unusual chaotic condition at that time; no.

Mr. Porter. I should like to show you, Mr. Roberts, a letter on the letterhead of South Chester Tube Co., dated at Tulsa, Okla., December 30, 1937, and addressed by J. D. Swartz to J. P. Steele, designated as Southwest district sales manager. I would like you to identify that, if you would.

Mr. Roberts. Yes, I identify that.

Mr. Porter. I should have said that at the bottom the letter bears the notation to the effect that a copy was sent to Mr. Roberts. Mr. Chairman, I should like to offer this letter to be placed on file with the committee. It need not be printed in its entirety.

Acting Chairman Williams. It may be accepted.

(The letter referred to was marked "Exhibit No. 1428" and is on file with the Committee.)

Mr. Porter. I should like to read just a paragraph or two from the letter.

> We have definite and authentic information from a number of confidential sources establishing the fact that the National Tube Company has called on a number of their jobbers, trying to get them to give them orders for lapweld casing at a price of which their cost would figure approximately 12½ percent below regular lapweld prices, and which would figure from 5 to 7 percent lower than the jobbers' cost on our lapweld casing.

Then I shall omit a number of paragraphs.

> One story is that the National Tube Company wants the above mentioned tonnage to enable them to establish their cost on lapweld casing, as they have not had sufficient amount of lapweld tonnage in the past several years to know what their present cost would be.
>
> Further, it has been developed that when they have established their cost on lapweld casing they will use this as a basis to establish a selling price on a lower grade seamless. It would perhaps be grade A or grade B, and this selling price would be comparable to present lapweld prices.

I might say, Mr. Chairman, that I from time to time during my quotations have omitted the names of particular customers and particular prices which seem to me not material in the context. Does that letter, Mr. Roberts, refresh your recollection as to the market for lapweld products at that time?

Mr. Roberts. Yes; it appears to me that this was, from what finally developed, just gossip and rumor because I have no recollection and no actual knowledge that what was intimated in here actually took place.

Mr. Porter. Would it be fair to say that the circulation of, shall we say, rumors of this kind was to some extent symptomatic of the uncertain character of the markets at the time?

Mr. Roberts. Well, it is my experience, over a number of years, that there have been many occasions where rumors have started and they don't really gain much by repetition. They usually become more confusing as they are repeated.

Mr. Porter. In the course of testimony before the committee in the last several days we have heard that in the case of a number of steel products, the going prices during this period and the latter half of 1937 and also in the early part of 1938 were substantially in many instances, below the quoted or the posted prices. Was that true of oil country tubular goods also, Mr. Roberts?

Mr. ROBERTS. Not to my recollection, no, sir. Up to that time, as I recall it, the oil-country market had been fairly stable.

Mr. PORTER. Up to what time was that, Mr. Roberts?

Mr. ROBERTS. Through the latter part of 1937 and perhaps in the early part of 1938.

Mr. PORTER. I see. Let us suppose for just a moment that the report which this letter contains had been true, and that the National Tube Co. had in fact run off a large quantity of lapweld oil country tubular goods, which it disposed of at reduced prices through its jobbers, what would have been the effect of such an action on the then current market?

Mr. ROBERTS. Well, I don't know that I could answer that question, because a good bit would depend on the price at which the material was sold.

Mr. PORTER. Naturally, but it would have had an effect, would it not?

Mr. ROBERTS. Well, I think it would have had an effect, because it would be bringing back in the market some tonnage which we had not before, or at least for a number of years, we had not been worried about.

Mr. PORTER. Did the prices of oil country goods continue firm through the first half of 1938?

Mr. ROBERTS. To the best of my knowledge.

Mr. PORTER. Was there a weakening in them at any time during 1938?

Mr. ROBERTS. Not unless there were some specific cases that I perhaps wouldn't know about, or wouldn't hear about. That is, I can't recall any.

Mr. PORTER. You will recall, and I think the committee will recall as well, that in June 1938 on the 24th of the month there was a general downward revision of steel prices. Did that reduction apply to oil country goods, Mr. Roberts?

Mr. ROBERTS. I think that applied specifically to oil country goods.

Mr. PORTER. As well as to other products? I have here a letter addressed to you, Mr. Roberts, by Mr. Gibson, dated June 24, 1938, which I would like to have you identify.

Mr. ROBERTS. Yes; I recall that letter.

Mr. PORTER. I should like to offer this letter, Mr. Chairman, to be placed on file with the committee and it need not be printed.

Acting Chairman WILLIAMS. It may be received.

(The letter referred to was marked "Exhibit No. 1429" and is on file with the Committee.)

Mr. PORTER. The letter begins at the time this is written:

> Nothing further of a definite nature has been learned about any prices for oil country goods. The whole oil country purchases and sales fraternity here—

and the letter is dated at Pittsburgh—

> is in more or less of an uproar. Purchasers of other steel commodities such as drilling lines, steel derricks, etc., are now clamoring for a reduction and adjusted basing point to follow the mess which the Steel Corporation has made of the whole business. Mr. Schaefer—

and I take it that is the Mr. Schaefer who is present, Mr. Gibson?

Mr. GIBSON. That is correct.

Mr. PORTER (reading):

> Mr. Schaefer visited us here yesterday and advised that Wheeling would do nothing about any price situation until they learn what the National Tube Company's reaction toward lapweld will be. Mr. Schaefer stated that they were accepting business, what little they had in the last few days, under conditions of price in effect at the time of shipment.
>
> Schaefer also said confidentially and frankly that if there was any revised lapweld price made by the National Tube Company and we did anything beyond that, they would not make any announcement and doubtless would meet our prices in competition and publish no list.

I think that is enough of the letter for our present purposes. Do you recall the situation which that letter describes, Mr. Roberts?

Mr. ROBERTS. No, I don't; other than I think at that time the National Tube Co. announced a reduction in the price of seamless of, as I recall, either 5 percent or 7½ percent. I wouldn't be sure.

Mr. PORTER. And was a similar reduction made in the prices of lapweld products at the same time?

Mr. ROBERTS. I don't think so. At least as far as our lists are concerned I don't think we made any change at that time.

Mr. PORTER. I take it that that is the sense of the third paragraph which I read, which speaks of Wheeling at least doing nothing about any price situation until they learn what the National Tube Co.'s reaction toward lapweld will be. That would seem to suggest that the National Tube Co. had not taken any action at that point, Mr. Gibson. What is your recollection of the circumstances which attended the writing of this letter?

Mr. GIBSON. The letter is my letter. Might I preface the remarks I am about to make by saying that, as is well known, the very accepted fact that Pittsburgh being the capital, so to speak, of the steel industry, part of my work with the South Chester Tube Co. as its representative there is to keep abreast of trends and markets and anything which might be of benefit to the interests of our company.

Naturally, all of those facts, rumors, whatever you choose to call them, do not materialize, the facts naturally materialize but the rumors and gossip which you encounter in Pittsburgh as the center of the steel market are not always true; nor do they later develop into the things which they pretend to be when you hear them. To return to this particular letter, there had been considerable talk, conjecture, among the sellers, as well as the buyers, of pipe that there was to be some sort of a revision in prices and we didn't know exactly what that revision was to be; nor what was to come on, and how it affected us in particular as manufacturers of lapweld pipe exclusively, and Mr. Schaefer being as vitally interested as I in the lapweld markets, since that is their only manufactured product of a tubular nature, which they manufacture themselves in its entirety, discussed this with me, whether I had heard anything. I wrote this to Mr. Roberts as part of my obligation to the company, to keep abreast of these rumors and facts, if they materialized as facts.

Mr. PORTER. My question was directed rather to the price situation at that time, as you recall it. Mr. Roberts has testified to his recollection that the National Tube Co. had announced a reduction in the prices of seamless oil country products. Does your recollection confirm that?

Mr. GIBSON. I believe that the National Tube Co. had made some general announcement as concerned a revision and an addition of a class of seamless tubular oil country goods on this date, but I did not have a copy of those published prices which I believe bore a date of July 1. At the time this was written the rumor which I had was to the effect that the National Tube Co. published price lists did not contain any prices for lapweld material whatever, and that the gossip and rumor about the streets was to the effect that they had discontinued manufacture of lapweld oil country tubular goods as effective the date of the issue of that list which I believe bears a date of July 1.

Mr. PORTER. Would you, Mr. Gibson, as the representative of a concern manufacturing only lapweld products have any interest in a revision of prices on seamless steel products?

Mr. GIBSON. I would say we would have a very vital interest in a downward revision.

Mr. PORTER. Would you explain that interest?

Mr. GIBSON. Briefly, seamless tubular goods are made from a solid piece of steel and, not to be unduly technical, a process of elongation in which the tube is formed without any welds of any nature. It is simply a drawing out of a solid piece of steel. Lapweld tubular goods made by the folding, so to speak, of a sheet or plate bear a weld down the entire length of the actual tube part of the pipe. and because it has a weld throughout the whole length it is generally accepted and in technical tests it has been definitely proven to be of a less efficient nature to collapse under tension and tension of joint to seamless tubular goods. That is a statement as to general classification. Naturally, the only hope we have of selling lapweld tube, as a general thing, as refers to oil company usage is by virtue of the fact that we have a price differential which allows us to sell it in competition to a recognized, a technically recognized superior product. If that spread of selling price is not sufficient we can't ever hope to interest the user in purchasing an acknowledged inferior product, and the spread between the purchase price on those two types of tubular goods is what allows us, very frankly, to do the business volume which we do. It is recognized, of course, that even with that price spread there are drilling depths and surface line conditions which lapweld tubular goods cannot hope to meet under the present existing operating practices.

Mr. PORTER. So that I take it it is fair to say on the basis of the testimony thus far this afternoon that the manufacturer of lapweld oil country products is interested in price in two outstanding respects: First, in the degree of the spread between his raw material, skelp, and the price of the finished lapweld product, and, second, in the price of competitive finished pipe products of other types, notably seamless product.

Mr. GIBSON. That is a comprehensive statement; yes, sir.

Mr. PORTER. And I take it that that interest is true of your company, Mr. Strickland, as well as the South Chester Tube Co.

Mr. STRICKLAND. Yes, sir; that is the last statement, between the seamless and the lapweld.

Mr. PORTER. Exactly.

Returning for a moment, Mr. Gibson, to the action of the National Tube Co. at this period about the 1st of July 1938, I should like to

have you identify a letter bearing your signature, dated at Pittsburgh on February 3, 1939, addressed to Mr. Roberts, which I think summarizes rather briefly the events of this particular period.

Mr. GIBSON. That is my letter, Mr. Porter.

Mr. PORTER. Mr. Chairman, I should like to offer this letter to be placed on file with the committee.

Acting Chairman WILLIAMS. It may be received.

(The letter referred to was marked "Exhibit No. 1430" and is on file with the Committee.)

Mr. PORTER. I may explain, in order to give the setting of the letter which as I have said is dated February 3, 1939, several months after the events which were concerned, that it would appear that Mr. Gibson was analyzing in this letter to Mr. Roberts some of the considerations which explained a falling-off in the sales of lapweld pipe during the middle part of 1938. I am reading now from the letter:

> However, these first two considerations as mentioned above I believe were very much smaller factors in determining the proportion of wells drilled to pipe production, than was the situation created on July 1st, when the National Tube Company without notice or warning created a new class of seamless, a reduction of price on all old grades and the establishment of new physical properties for oil country pipe of future manufacture from that date. You will recall as vividly as the writer, the mad rush which ensued immediately after this action of July 1st, whereby all mills immediately recognized the fact that pipe in stock, particularly seamless of course, was made obsolete in the face of the new grades. The natural reaction of the mills could only be that they must dispose of their stocks of seamless on hand at that time and J. & L., because of their precarious financial condition, immediately made all old Grade "C" new Grade "B" in so far as price was concerned.

I might interject a question there. I take it the significance of that action by Jones & Laughlin, Mr. Gibson, was that a new grade of seamless pipe having been introduced by a competitor, the National Tube Co., the Jones & Laughlin Steel Corporation felt it necessary to dispose of the old grade which had been replaced at lower prices than the old grade had hitherto commanded. Is that correct?

Mr. GIBSON. I would like to change your wording to this extent, that to the best of my knowledge the introduction of the new grade of seamless material was not made by J. & L.

Mr. PORTER. National Tube.

Mr. GIBSON. You said J. & L.

Mr. PORTER. I didn't intend to. Thank you. My statement is otherwise accurate, is it?

Mr. GIBSON. Will you repeat it now?

(The reporter read Mr. Porter's statement.)

Mr. GIBSON. To answer that question, let's go back to the fact that on the 1st of July a new grade of oil country casing was placed upon the market as I repeat to the best of my knowledge for the first time by the National Tube Co.

Mr. PORTER. That is the seamless product?

Mr. GIBSON. That is the seamless product and seamless products prior to that time had all borne symbols of grade of letters, A, B, C, and D until that time, the symbols significant of the physical properties of the steel and therefore of the pipe. I don't think that it is of interest to this committee to get into a technical discussion of the variants of those properties except to say that they were graded from the point of yield strength, the higher the yield strength, of course, the lower

the setting depth in the hole or feasibility of running them to deeper depths in the well.

We had prior to the introduction of grade B as a casing, only C and D as casing classifications. When the new B was introduced the old C was marked up in its physical properties, or in other words any new C made from that date on would be carried at a higher yield strength, which I can give to you but I don't believe that is of any particular interest. And coupled with yield strengths in tubular goods casing there are other specifications which must be carried out in the manufacture and test procedure to meet the standard of the American Petroleum Institute to which we all work as a standard of manufacture. A large amount of the old C would not meet one of the specifications for the record, namely elongation, and since the new C was going to be a better product, the other manufacturers' old C then in present stock became a more or less obsolete product, but I have no method of knowing how much of this there was. We do not manufacture seamless. This is all, you might say, hearsay testimony which I am giving at this time, but it was disposed of at the new grade B prices and sold as the old grade C physical standard. Does that answer your question?

Mr. Porter. Yes; I think that covers the matter.

I will go back a moment later to summarize, but at the moment I should like to read one other portion of this letter.

Mr. Gibson. May I interrupt, Mr. Porter, to say that this matter of this letter and perhaps others which you might have, were reported by me to Chester only as a matter of general information. We do not manufacture seamless and I repeat the statement I made prior to this time, to the effect that I feel it part of my obligation to the company to report all of the things which happen in Pittsburgh as regards pipe, the market, the manufacture, and so forth, not particularly because it affects our company but as a matter of general interest. I would like to get that into the record. We are not particularly interested in seamless as we do not manufacture it.

Mr. Porter. But as has been developed earlier, the prices of those grades of seamless steel pipe which carry lower physical specifications are of interest to you as a lapweld manufacturer.

Mr. Gibson. Very vitally.

Mr. Porter. By virtue of the fact that there is competition between the two products.

Mr. Gibson. And I might add to that that the lapweld competition immediately became competition between the new then called grade B.

Mr. Porter. I am reading again from the letter of February 3, 1939, which reviewed the facts that we are discussing at the moment:

> We also cannot fail to take into consideration the fact that the July reduction is in the price of seamless material and the advent of grade "B" together with the National Tube Company's announcement that they were discontinuing the manufacture and sale of lapweld oil country goods, all had quite a bearing on the production of the mills. This naturally prompted the purchase of considerable material which was actually old grade "C" seamless by operators who normally would have purchased lapweld, and we certainly cannot overlook the fact that the spread in price between the "B" grade of seamless and lapweld so reduced the savings in the use of lapweld to cut down the lapweld production of all the mills.

So if I may summarize at this point, the significance of the introduction of the new grade of seamless was really twofold, was it not, Mr. Gibson, that is, under the announcement of the National Tube Co. the new grade B seamless pipe was priced at a level which might be, whether in fact it was or was not, competitive with lapweld oil country products, and in addition the old grade C which was replaced, being obsolescent, was offered to the trade at the same price as the new grade B, and therefore also was competitive with the lapweld product?

Mr. GIBSON. Insofar as existing stocks of the old grade B were concerned, the old grade C, I mean.

Mr. PORTER. Just what, in fact, Mr. Roberts, was the effect of these changes on the price of lap-weld in the market?

Mr. ROBERTS. Well, as Mr. Gibson has stated, the price of the grade B seamless was so low compared to what seamless had been sold at in the past that it became even more difficult to interest customers in the purchase of lap-weld materials.

Mr. PORTER. I take it that I may say for the record, and I think these gentlemen will bear me out, that soon after July 1, 1938, and during the course of that month, most of the producers of oil country goods announced prices on the old grade C seamless product equivalent to the prices of the new grade B. That is a fact, is it not, gentlemen?

Mr. ROBERTS. I think it is.

Mr. SCHAEFER. During the latter part, I believe.

Mr. PORTER. Yes. So that I should like to revert for just a moment to the letter already in the record dated June 24, 1938, which was written by Mr. Gibson to Mr. Roberts,[1] in which he said in part:

> Mr. Schaefer also said confidentially and frankly that if there was any revised lapweld price made by the National Tube Company and we did anything beyond that, they would not make any announcement, and doubtless would meet our prices in competition and publish no list.

I take it from that that it is fair to say, then, that during this period the lap-weld producers were waiting in a sense to see where the prices would establish themselves after this period of transition, is that correct?

Mr. ROBERTS. That is correct; yes, sir.

Mr. SCHAEFER. The first reduction to which you first referred on June 24, on or about that time, as I recall, that that only applied—that was a 5-percent reduction—only applied to certain items; it wasn't a reduction that applied to all kinds of seamless material. A little later on, I think the latter part of July, when a general reduction came out on all seamless of 2½ percent, which made certain items of grade C 5 and 2½ percent, and that I think was the time when the new grade B was announced, new grade B seamless

Mr. PORTER. Excuse me, Mr. Schaefer. I think the record shows that the new grade B was announced on July 1.

Mr. SCHAEFER. That is when the price went into effect, on July 1. We took no action as far as lap-weld was concerned. We announced a reduction of 2½ percent on all grades of lap-weld.

Mr. PORTER. When was that?

Mr. SCHAEFER. On about July 1.

[1] "Exhibit No. 1429," on file with the committee.

Mr. Porter. Was that reduction followed by your company, Mr. Roberts?

Mr. Roberts. I don't recall. I know we didn't publish a list. It is just possible that if we had any inquiries in that period we would have quoted the 2½ percent lower price.

Mr. Porter. Now, Mr. Schaefer, will you state whether or not your company, the Wheeling Steel Corporation, after that 2½ percent reduction on July 1, contemplated further reductions in the prices of lap-weld products?

Mr. Schaefer. We took considerable time to consider the whole tubular situation, Mr. Porter. We had to make quite a few surveys, which we did, and in the meantime there wasn't any business to speak of; there wasn't anything to hurry about prices, so we naturally took our time to get our feet on the ground and see about where we would land. We did later on, as you know, make some reductions on lapweld.

Mr. Porter. That was considerably later, sometime in the latter part of August, was it not?

Mr. Schaefer. I think we made one on August 1 and August 24.

Mr. Porter. And August 24?

Mr. Schaefer. Yes.

Mr. Porter. Mr. Roberts, I should like to show you a teletype dated July 15, 1938, reproducing a conversation I think between you and your Fort Worth representative, Mr. Steele. I would like to have you identify that.

Mr. Roberts. Yes; I recall this.

Mr. Porter. I should like to offer this to be placed on file, Mr. Chairman.

Acting Chairman Williams. It will be received.

(The letter referred to was marked "Exhibit No. 1431" and is on file with the Committee.)

Mr. Porter. The paragraph in which I am interested is one which reads as follows:

> Did you know Wheeling intends to announce their prices today on popular sizes? We understand they intend to use National Tube old list prices of lapweld and reduce them 2½ and 5 percent and $7.50 per ton.

I take it, then, Mr. Roberts, that at that time it was reported to you that the Wheeling Steel Corporation intended to make a further reduction in its prices on lap-weld oil country products?

Mr. Roberts. That would appear from that teletype; yes, sir.

Mr. Porter. And as I understand it, Mr. Schaefer, your company did actually announce a reduction of price on August 1, 1938, is that correct?

Mr. Schaefer. Well, we announced a relative reduction on lapweld pipe, applicable to lap-weld oil country goods, which rather paralleled the seamless at that time. That was just a general announcement. We didn't put out any list.

Mr. Porter. I see. That was August 1, 1938?

Mr. Schaefer. That was leading up to the August 1 price.

Mr. Porter. I see; and then on August 1 you issued your list?

Mr. Schaefer. That is right.

Mr. Porter. Now following that, by your company on the 1st of August 1938, Mr. Schaefer, did your company give consideration

to the possibility of a further reduction in the prices of lap-weld products?

Mr. SCHAEFER. After August 1 our company—we were doing considerable figuring; we were not satisfied. The August 1 list might bring us—some of them were in the red; some of them were in the black, you might say. But we weren't satisfied that was the list we would eventually cousider as our standard list.

Mr. PORTER. Mr. Roberts, were you at that time—that is, in the first week or two of August 1938—aware that the Wheeling Steel Corporation was giving consideration to the possibility of further reductions in its lap-weld lists?

Mr. ROBERTS. Not that I recall.

Mr. PORTER. I should like to hand you, Mr. Roberts, a letter dated August 9, 1938, addressed to Mr. Gibson at the Daniel Boone Hotel, Charleston, W. Va., which I should like to have you identify. I might point out that a reply to this letter is reproduced on the same sheets—a reply by Mr. Gibson dated August 15, 1938—but at the moment my interest is only in your letter of August 9.

Mr. ROBERTS. Yes; I remember that.

Mr. PORTER. Mr. Chairman, in view of the fact that these two letters are printed on the same sheets, I think that my offer should be of both letters to be printed, unless it is possible to print just the letter of August 15, which I shall come to in a few moments, separately.

Acting Chairman WILLIAMS. Have you identified the second one yet?

Mr. PORTER. No; the witness has not identified the second letter yet. I should like to offer just the first, if that is practicable.

Acting Chairman WILLIAMS. It may be received.

(The letter referred to was marked "Exhibit 1432" and is included in the appendix on p. 11006.)

Acting Chairman WILLIAMS. I take it you will offer the second one later?

LAP-WELD PRICE DISCUSSIONS IN AUGUST 1938

Mr. PORTER. Yes; I should like to read brief portions of this letter of August 9, written by Mr. Roberts to Mr. Gibson. "I talked to Henry on Friday." Who is Henry, Mr. Roberts?

Mr. ROBERTS. I presume Mr. Schaefer.

Mr. PORTER (reading):

I talked to Henry on Friday, but evidently did not get very far with my argument when I told him it was my impression from past conversations which you will bear out, that he was terribly afraid to make prices too low for fear of bringing down the house on his head, and I told him that apparently he had thrown discretion to the winds as there does not seem to be any good reason for making the South Penn list as low as he has done.

Skipping to the fourth paragraph:

I do not know what route you will take in returning from Charleston, but I am wondering whether it would be convenient to stop off at Wheeling on the way back to go into this matter further with Henry, provided I am unable to get anywhere with him. He admits that the prices quoted do not permit of any profit, and I can't understand why they deliberately quote prices so low when it apparently is possible to get higher prices in West Virginia.

I think that is all of the letter that I need to read. I take it, then, from this portion of the letter that I have read, Mr. Roberts, that at

that time you were in communication with Mr. Schaefer, of Wheeling, with respect to certain prices on Wheeling's lap-weld list. Is that correct?

Mr. ROBERTS. Well, as it has been stated previously, there was a great deal of confusion at that time due to the drastic changes in the prices of tubular goods. We have nothing else in our line to operate the plant on, and we naturally are vitally interested in the prices at which tubular goods will be sold.

The reports that came to me as to the possible prices which would be quoted on lap weld seemed to me to be so far out of proportion to the prices that were being quoted on seamless or that we understood would be quoted on seamless, and they were so far below our costs, that I was really very much alarmed if they would be published, and we would be forced to meet such competition. Otherwise, I couldn't see, unless we met the competition, there would be anything else to do but close the plant. Any discussion that I might have had with Mr. Schaefer had entirely to do with the actual costs of producing material, which, after all, is the basis on which we have to start to compute prices.

Mr. PORTER. Is it your custom, Mr. Roberts, or the custom of the officers of your company, to consult or confer with the Wheeling Steel Corporation either with respect to the prices which you are to announce or with respect to the prices that they announce?

Mr. WITNEY. Mr. Chairman, I think that is one of the questions under which we would like to have immunity.

Acting Chairman WILLIAMS. Well, what is your claim?

Mr. WITNEY. I don't know the answer, but I am afraid the answer might incriminate one company, at least the South Chester Tube Co.

Acting Chairman WILLIAMS. Very well. You may answer.

Mr. ROBERTS. No; positively. We don't consult Wheeling or any other company as to what prices they are going to publish. It has never been our policy as far back as I have had anything to do with the sale of tubular goods in connection with the South Chester Tube Co.

Mr. PORTER. But you do consult, I take it. What is the subject of those consultations, normally?

Mr. ROBERTS. It isn't usual to consult. That so happened this time that the situation was so demoralized, as I stated, that we were very much alarmed that we were wondering how we were going to continue business, and our only consultation with any of the Wheeling people was to inquire into the possibility of their having incorrectly checked their costs or whether they could perhaps justify the prices from their costs.

Mr. O'CONNELL. As I understand this letter, you felt that the list published by the Wheeling Co. was too low and you discussed with Mr. Schaefer the fact that you thought this price was too low and should be higher.

Mr. ROBERTS. As I recall, I asked him only why he felt that it was necessary to go so far, to make such a drastic reduction.

Mr. O'CONNELL. You say, "You talked to Henry on Friday but evidently did not get very far with your argument," so I take it that argument was addressed to the question of prices that they were charging.

Mr. ROBERTS. That again is a rather poor choice of words. We didn't have any argument.

Mr. O'CONNELL. All I have to go by, of course, is what you say here.

Mr. ROBERTS. I realize that. Some of these letters were written rather hurriedly and without sufficient thought and the choice of words is not the best in all cases.

Mr. REYNDERS. May I ask if that would involve the possible closing down of your plant?

Mr. ROBERTS. I was very much afraid of that.

Mr. O'CONNELL. One more question. Further in the letter you suggest to Mr. Gibson that he stop in to see Mr. Schaefer on his way back from Charleston. What did you expect him to discuss?

Mr. ROBERTS. I thought in the meantime that possibly Mr. Schaefer would have the chance to check into these costs and find out whether he still thought it was necessary to go that low.

Mr. O'CONNELL. You thought he might then have been impressed with what you had had to say to him before?

Mr. ROBERTS. I naturally wanted to know whether he felt they could consistently do that.

Mr. PORTER. Mr. Gibson, in order to continue these events of August 1938, I should like to show you a letter bearing your signature dated August 12, 1938, at Pittsburgh, and addressed to Mr. Roberts.

Mr. GIBSON. I identify the letter, sir.

Mr. PORTER. Mr. Chairman, I should like to offer this letter to be printed.

Acting Chairman WILLIAMS. It may be received.

(The letter referred to was marked "Exhibit No. 1433," and is included in the appendix on p. 11007.)

Mr. PORTER. The letter reads as follows, and I might just point out that this letter follows by 3 days the letter of Mr. Roberts, date of August 9, 1938, which we have been discussing.[1] [Reading from "Exhibit No. 1433"]:

> Regarding previous correspondence concerning lapweld prices of the various mills, we wish to advise that we stopped in Wheeling last week on our way west and spent some time with both Mr. Schaefer and Mr. Strickland.
>
> At that time, they gave me copies of their new lists and, while I did not have a great deal of opportunity while with them to analyze these, I remonstrated quite vigorously about the reduction in prices on the items other than the tonnage group.
>
> Mr. Schaefer said he did not see they could do anything else and exist.
>
> Mr. Schaefer is out of town at the present time, but since returning to Pittsburgh, I find that most of the other mills are after us, in an effort to get our cooperation in insisting that Wheeling bring the prices on the items other than the tonnage group up to the previously announced 2½ percent.
>
> Mr. E. N. Smith of the National Supply Co. discussed this with me by telephone today and wants me to meet with Mr. Brundred, their vice president, to go over this matter.
>
> From Mr. Smith, we learned that Mr. Goble, vice president of the National Tube Company, was hunting Mr. Schaefer to secure an interview and demand that they revise these prices.
>
> In West Virginia, we found a terriffic confusion existed and, yesterday, the first Lapweld List from Spang Chalfant reached the National Supply Company and the customers there.

[1] "Exhibit No. 1432," appendix, p. 11006.

Then I should like to read a postscript to this letter:

Since dictating the above, I have reached Mr. Strickland of Wheeling by telephone, who advised that he had already talked with you today.

From Mr. Strickland's conversation, I learned that they had already been with Goble and that Wheeling is now going to revise their previously announced prices.

Mr. Strickland stated you could come to Pittsburgh early next week to go into this matter, and I assured him that I would also do anything I could to help them out of this jam.

Mr. Gibson, do you recall the circumstances under which you wrote this letter?

Mr. Gibson. Yes, Mr. Porter.

Mr. Porter. Would you like to tell in your own words what those circumstances were?

Mr. Gibson. To go back to the letter written at some date mentioned, I don't have it here, which you previously read into the record, there was a terrific confusion concerning lapweld pipe prices at that time, since no list had been published by any mill. That, of course, as can readily be seen, left a very confusing attitude on the part of the customers as well as the manufacturers, and from what information we had had concerning the list which we proposed to publish, it looked to me like there were sizes included in that on which the prices were below cost and I didn't believe that that was a very good practice.

Are there some particular points you want to question me about?

Mr. Porter. You did talk to Mr. Schaefer on this matter, I take it.

Mr. Gibson. I talked to Mr. Schaefer at Wheeling; yes.

Mr. Porter. What was the tenor of that conversation so far as you recall it?

Mr. Gibson. The tenor of that conversation was to the effect that we at that time, as you know, had not published a list price on lapweld tubular goods. No one else had published a list price. I saw at that time a tentative list which Wheeling was contemplating publishing. The figures thereon were, to my way of thinking, very much out of line with costs, and I so stated to Mr. Schaefer at that time.

Mr. Porter. Mr. Schaefer, do you recall what your reaction to Mr. Gibson's position was?

Mr. Schaefer. My recollection is, Mr. Porter, that Mr. Gibson came in as I recall and started to talk about the oil country list. That oil country list previously mentioned in the letter there, the visit was some time about August 12 or 13, was it not?

Mr. Porter. The visit, it states, was August 12.

Mr. Schaefer. Our list of August 1 was already out. As far as that goes it was public property.

Mr. Porter. Was it that list which was the subject of the conversation or was it some tentative list for the future which you gentlemen discussed?

Mr. Schaefer. At that time it could only have been that list, as I recall it, because that was the only list we had out.

Mr. Porter. As I recall your testimony of a few moments ago, you stated that at that time the officials of the Wheeling Steel Corporation were giving some consideration to a possible further revision of the lapweld lists.

Mr. SCHAEFER. We were going over our costs, reviewing the set-up, to see exactly what we might and might not be able to do. We were constantly working on lapweld prices.

Mr. PORTER. What was the nature of your reply to Mr. Gibson?

Mr. SCHAEFER. The only thing was that that was our present list and that was all we had to offer at that time, August 12.

Mr. PORTER. Mr. Gibson, you speak in your letter of discussing the matter with Mr. E. N. Smith, of the National Supply Co. What is the National Supply Co.

Mr. GIBSON. The National Supply Co. is a manufacturer and distributor of oil country products.

Mr. PORTER. Do you recall the nature of your discussion with Mr. Smith?

Mr. GIBSON. Yes; to the extent that at the time there had been no officially revised list of any lapweld casings received by the Spang Chalfant Supply Co. or the National Supply Co. in particular, and Mr. Smith wanted to know if I had one or if we had published one.

Mr. PORTER. As I read this letter, the paragraph immediately preceding the one in which you mention your conversation with Mr. Smith, is talking about the fact that—

most of the other companies are after us—

Meaning, I take it, South Chester Tube Co.—

in an effort to get our co-operation in insisting that Wheeling bring the prices on the items other than the tonnage group up to the previously announced 2½%.

The next paragraph reads:

Mr. E. N. Smith, of the National Supply Company discussed this with me by telephone today—

and I take it "this" can only mean the effort to get South Chester Tube Co. to insist that Wheeling bring prices up. Would you say that is a fair reading of those two paragraphs?

Mr. GIBSON. Not in its entirety. With the discontinuance of the manufacture of lapweld casing by the National Tube Co., that left Wheeling and the South Chester Tube Co. as the two remaining manufacturers who made only lapweld oil company products, and——

Mr. PORTER (interposing). A correction there, Mr. Gibson. I take it that even before their discontinuance of the manufacture of lapweld products, the National Tube Co. had produced also seamless and other types of pipe, so that even before that time Wheeling and South Chester were the only manufacturers exclusively of lapweld.

Mr. GIBSON. That is correct, but after the National Tube Co. discontinued the manufacture of that we remained the only two exclusive lapweld manufacturers who had no possibility of making anything else. I am sorry I didn't make that clear. They were interested from the point of view of the National Supply Co. to find out what the lapweld prices were going to be, and they found or got possession, I believe, as this letter refers to, this price list, they wanted to know if we were going to meet that and if we thought it was fair from the basis of cost and naturally we would have to follow the first published list or reject it and establish another, and naturally you couldn't hope to sell lapweld products at that price.

Mr. PORTER. That list which you speak of was the Wheeling list, was it?

Mr. GIBSON. That is correct.

Mr. O'CONNELL. Is the National Supply Co. a purchaser of the tubular products?

Mr. GIBSON. The National Supply Co., to my understanding of it, owns Spang Chalfant, who is a manufacturer and they purchase their tubing goods from Spang Chalfant Co.

Mr. O'CONNELL. The company to which you just referred do manufacture this kind of——

Mr. GIBSON (interposing). Both kinds.

Mr. O'CONNELL. Then there is another company other than your company and the Wheeling Co. that manufactures lapweld, but you are the only——

Mr. GIBSON (interposing). Oh, I am afraid I have stated that very poorly. What I meant to say is that Wheeling and ourselves are the only two companies who manufacture only lapweld tubular goods for the oil industry.

Mr. PORTER. I take it that the National Supply Co. is the distributing outlet for the Spang Chalfant Co. Is that correct?

Mr. GIBSON. In part.

Mr. PORTER. And that the Spang Chalfant Co. manufactures both lapweld and seamless oil country products.

Mr. GIBSON. That is correct.

Mr. PORTER. From this letter I gather that during your conversation with Mr. Smith of the National Supply Co. it was stated by Mr. Smith that Mr. Goble of the National Tube Co. "was hunting Mr. Schaefer to secure an interview and demand that they revise these prices."

Mr. GIBSON. That is hearsay from Mr. Smith. I would like to say for the record that "demand" is not a very good choice of word there. I don't think that Mr. Smith would be in position to say that anyone demanded anything. That was my wording and I don't think it is particularly good.

Mr. PORTER. In the postscript to this letter you state that you have reached Mr. Strickland of Wheeling by telephone and that from your conversation with him you learned that day, meaning, I take it, Wheeling, "had already been with Goble and that Wheeling is now going to revise their previously announced prices."

Mr. GIBSON. Oh, no; Mr. Porter. It says, "Since dictating the above I have reached Mr. Strickland of Wheeling by telephone, who advised that he had already talked with you today," you meaning Mr. Roberts.

Mr. PORTER. I was referring to the second paragraph:

> From Mr. Strickland's conversation I learned that they had already been with Goble and that Wheeling is now going to revise their previously announced prices.

Mr. GIBSON. That is what the letter reads; yes, sir.

Mr. PORTER. Is that a fair statement?

Mr. GIBSON. From the content of the letter, yes.

Mr. PORTER. Is the statement in the letter a fair statement of your conversation with Mr. Strickland?

Mr. GIBSON. Yes.

Mr. PORTER. Is that your recollection of the conversation with Mr. Gibson, Mr. Strickland?

Mr. STRICKLAND. What is the date of the letter?

Mr. PORTER. August 12, 1938.

Mr. STRICKLAND. Do you have the letter there? In the first place, I did not talk to Mr. Goble regarding this matter whatsoever. In the second place, at that time, on August 12, we had not made up our minds whether we were going to revise or not. In fact, it must have been around the 18th or 19th before we definitely decided what we were going to do regarding an issue on the new list on lap-weld pipe. Please understand, people may have contacted me to know what we were going to do. We were in no position to tell them whether we were going to revise up or down or whether we were even going to revise the list. We didn't know ourselves.

Mr. PORTER. Mr. Strickland, isn't the Wheeling Steel Corporation customarily the leader in establishing prices on lap-weld oil country products?

Mr. STRICKLAND. We are not.

Mr. PORTER. So that this, in a sense, was an unusual situation.

Mr. STRICKLAND. Very unusual.

Mr. PORTER. Did Mr. Goble ever approach you with respect to this list?

Mr. STRICKLAND. He did not.

Mr. PORTER. At no time?

Mr. STRICKLAND. At no time, sir.

Mr. PORTER. You did have, however, a conversation with Mr. Gibson and Mr. Roberts.

Mr. STRICKLAND. With Mr. Roberts and I believe with Mr. Gibson. I had a conversation with Mr. Roberts regarding this. My memory goes that far.

Mr. PORTER. Do you recall the substance of your conversation with Mr. Roberts referred to in this postscript of the letter of August 12, 1938?

Mr. STRICKLAND. August 12? I believe it would be, if my memory serves me—I have no record of it—probably the same thing that we had discussed—that was, that it was a question of their seeming to believe that some of the items that we had on our lap-weld list were too low in price—that is the only thing I can think of.

Mr. PORTER. Do you recall what your reaction to that suggestion was?

Mr. STRICKLAND. Well, as I told you awhile ago, we could not make up our minds what we were going to do. I couldn't give anybody an answer at that time because I didn't know.

Mr. PORTER. I take it you did not share Mr. Roberts' view with respect to the level of these prices.

Mr. STRICKLAND. To be perfectly frank, we hadn't gotten that far along in our costs to know where we stood; we had not got far enough along in the investigation of costs to make a decision at that moment.

Mr. PORTER. Mr. Chairman, in order to bring this portion of the testimony to an early close I should like to offer for identification by Mr. Gibson a letter bearing his signature on August 15, 1938, which is the one attached to the letter of August 9, already in the record.

Mr. GIBSON. That is my letter, Mr. Porter.

Mr. PORTER. In view of the fact that this letter is available in mimeographed form, I think it unnecessary to read any substantial portion of it, and I therefore offer it to be printed.

Acting Chairman WILLIAMS. It may be received.

(The letter referred to was marked "Exhibit No. 1434" and is included in the appendix on p. 11008.)

Mr. PORTER. Mr. Gibson, in the third paragraph of this letter you state:

> As we mentioned to you—

That is, Mr. Roberts—

> by telephone, on our way west we spent some at Wheeling and remonstrated with these people very vigorously.

I take it that remonstrance was with respect to the list which has been under discussion here. Is that correct?

Mr. GIBSON. That is correct.

Mr. PORTER. At the bottom of page 2 you say:

> Incidentally, Mr. Czarniecki of the Byers Company was in our office this morning and we have enlisted his support in trying to have Wheeling see the light in this matter, and frankly we believe that our efforts here with Mr. Smith of the National Supply Company have had a great deal to do with getting Wheeling started on the right track again.

Did you present this problem to Mr. Czarniecki, of the Byers Co., as one in which he would be interested?

Mr. GIBSON. Just the reverse. He presented it to me as one in which they were very interested.

Mr. PORTER. The Byers Co. is a manufacturer of what, Mr. Gibson?

Mr. GIBSON. Primarily iron pipe. They do manufacture some steel pipe, of what range I can't say.

Mr. PORTER. So that when Mr. Czarniecki raised this question you, as you state, enlisted his support in trying to get Wheeling to see the light in this matter.

Mr. GIBSON. Yes.

Mr. PORTER. Did Mr. Czarniecki approach you with this problem, Mr. Strickland?

Mr. STRICKLAND. No; he did not.

Mr. PORTER. Mr. Schaefer?

Mr. SCHAEFER. I don't recall that he ever did.

Mr. PORTER. Did anyone from the National Supply Co. or the Spang-Chalfant Co. approach either of you gentlemen?

Mr. STRICKLAND. No, sir.

Mr. SCHAEFER. To raise prices?

Mr. PORTER. With respect to the list which we are discussing here.

Mr. SCHAEFER. They may have said the list wasn't a uniform list. I don't recall anyone of them directing the question to me.

Mr. STRICKLAND. I want it a matter of record here that while some people protested these prices, at no time did we make any agreement to raise the price, decrease the price, or use any but our own best judgment.

Mr. PORTER. I should like to have the record show your answer to this question, Mr. Strickland. Did you in fact during this period make any upward provision in your lap-weld lists?

Mr. STRICKLAND. Do you mean as to the August 24 list?

Mr. PORTER. That is right.

Mr. STRICKLAND. It is pretty hard to say, unless you take all your tonnage, whether it is a decrease or an increase. Mr. Porter, I would like to read a little note I wrote on the train of the real reason why we made the change of August 24 over our price of August 1. This is just a rough note that I wrote. [Reading:]

On August 1st when we brought out our August 1st sheet, we did not know the reason for the introduction of tonnage items of casing and tubing into the industry. At the time we had only two courses to pursue, one was to simply parallel the reduction of seamless by our additional spread between lapweld and seamless that had been in effect on our previous list; second was to consider all lapweld items as tonnage items, as we only had one kind of lapweld pipe to sell, while the seamless manufacturers had three different grades of casing in the tonnage items. We adopted the second method and brought out our sheet of August first. Several days after bringing out our sheet of August first people in the industry contacted us and explained that the reason for putting out a tonnage list was due that after a number of conferences with the larger buyers in the oil industry there had been arrived at a tonnage list of popular sizes on the basis of the buyers in the oil business concentrating on these sizes and weights and would buy the greater part of their tonnage in these sizes and weights, thereby giving the manufacturers a lower cost, and it was thought that the manufacturers might be able to pass on some of that saving to them. The consumers did not want this tonnage list increased. With this explanation of what the consumers wanted and a realization that we might undo considerable work that had been done by the buyers and the manufacturers in standardizing on items in the oil country field, we started to work out a new list, keeping in mind that we expected to sell lapweld oil country goods, that we had to keep in our list at least the same dollar and ton spread that we had on previous lists between lapweld and seamless. As we worked this out, a number of people contacted us as to what we were going to do so we were unable to tell them definitely until we had announced our prices to the trade. On August 24th this price list reduced the prices to the consumer on the tonnage items or the important items and increased the non-tonnage items on the less important items.

Mr. SCHAEFER. May I make a change there? Mr. Strickland said three different steel-tonnage items. There were two tonnage items.

Mr. STRICKLAND. I will accept that.

Mr. PORTER. Mr. Roberts, would you state whether it was the popular sizes, as the phrase is used in the trade, or the less frequently purchased sizes of lap-weld pipe as to whose prices you were concerned during this period?

Mr. ROBERTS. My recollection is that it was the so-called non-tonnage group.

Mr. PORTER. That is the nonpopular group, if I may use the phrase.

Mr. ROBERTS. Yes; that is right, the nonpopular group.

Mr. PORTER. Mr. Chairman, in view of the hour, I think that this might be a convenient point at which to break this testimony, which will take a somewhat different line from here on. Perhaps the Committee has some questions which it would like to put to the witnesses.

Acting Chairman WILLIAMS. Has the Committee any questions? You are ready to resume your testimony in the morning then?

Mr. PORTER. Yes, sir.

Acting Chairman WILLIAMS. The Committee will be in recess until 10:15 tomorrow.

(Whereupon, at 4:45, the Committee recessed until 10:15 a. m., Tuesday, November 14, 1939.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

TUESDAY, NOVEMBER 14, 1939

United States Senate,
Temporary National Economic Committee,
Washington, D. C.

The committee met at 10:30 a. m., pursuant to adjournment on Monday, November 13, 1939, in the Caucus Room, Senate Office Building. Representative Clyde C. Williams presiding.

Present: Representative Williams (acting chairman); Messrs. Henderson, Avildsen, O'Connell, and Brackett.

Present also: Hugh White, representing the Federal Trade Commission; John V. W. Reynders, representing the Department of Commerce; A. H. Feller, special assistant to the Attorney General; John W. Porter, Irving Glickfeld, Hyman Ritchin, Monroe Karasik, and Ward S. Bowman, Department of Justice.

Acting Chairman Williams. The committee will be in order, please. The witnesses will come forward, please.

TESTIMONY OF CHARLES H. ROBERTS, GENERAL SALES MANAGER, AND FRANCIS H. GIBSON, DISTRICT SALES MANAGER, SOUTH CHESTER TUBE CO., CHESTER, PA.; OSCAR I. STRICKLAND, MANAGER, TUBULAR PRODUCTS DIVISION, AND HENRY E. SCHAEFER, ASSISTANT MANAGER, TUBULAR PRODUCTS DIVISION, WHEELING STEEL CORPORATION, WHEELING, W. VA.—Resumed

Mr. Porter. Mr. Chairman, yesterday afternoon through these witnesses testimony was brought out with respect to the behavior of certain prices of steel tubular products during 1938; specifically the story which was told related to the price competition between two types of oil country tubular products, seamless steel pipe and lap-weld steel pipe, and the witnesses who are now on the stand, representing the only two exclusive manufacturers of lap-weld pipe, described the events following upon certain changes in the price structure of seamless tubular products on the 1st of July 1938.

It will be recalled that on that day the National Tube Co., a subsidiary of the United States Steel Corporation, announced a new class or grade of seamless tubular product at a price differential of a relatively small extent above the comparable lap-weld product, and at the same time announced its own withdrawal from the manufacture of lap-weld pipe. The result of this action was considerable pressure by seamless products upon the price structure of lap-weld tubular products in the oil country field.

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We heard from the witnesses testimony as to the actions taken by their companies, that is the Wheeling Steel Corporation and the South Chester Tube Co., as a result of these events. The Wheeling Steel Corporation announced a reduction in prices on August 1, 1938, and some 3 weeks later a further reduction in many lines of lap-weld products.

This morning I should like to continue and complete the story of these events in the market for oil country tubular products during the latter half of 1938.

Mr. Schaefer, following the events which we were discussing yesterday was the price situation with respect to lap-weld products clarified and stabilized, that is in the last week or two of August 1938, and the first 2 weeks of September?

Mr. SCHAEFER. As far as we were concerned, I would say it was.

Mr. PORTER. The confusion which had theretofore existed was pretty much eliminated, was it?

Mr. SCHAEFER. Apparently so.

Mr. PORTER. Is that your reaction also, Mr. Roberts?

Mr. ROBERTS. Yes, it was in very much better shape the latter part of August than it had been a month or so prior to that time.

Mr. PORTER. Getting into September, did this stability continue through the middle and latter part of September 1938, Mr. Schaefer?

Mr. SCHAEFER. It did.

Mr. PORTER. Without exception?

Mr. SCHAEFER. Without exception. You mean all the way through September?

Mr. PORTER. Yes.

Mr. SCHAEFER. No; I wouldn't say that. There was an occurrence in the latter part of September which did upset that.

Mr. PORTER. Will you tell us what that event was, and as far as you can recall, when it occurred?

Mr. SCHAEFER. That event, as far as I can recall, occurred during the last week of September. That incident meant that the price of grade B seamless tonnage items was practically put down to the price of lap-weld, so-called, tonnage items.

Mr. PORTER. Let me see if I understand you. I take it that what you are saying is that the price of grade B seamless, which we will recall was the new grade announced by the National Tube Company on July 1, 1938, was reduced at some time during this period in September of which you are speaking to a level substantially equivalent to that of lap-weld products.

Mr. SCHAEFER. That is right.

Mr. PORTER. Is that correct?

Mr. SCHAEFER. Yes.

Mr. PORTER. As far as your knowledge goes, Mr. Schaefer, can you state what company made this reduction in the price of grade B seamless tubes?

Mr. SCHAEFER. The reduction, as I recall it, was not a general announcement. We heard during the latter part of September that seamless B was being offered to the trade, as I recall it. That was being offered by the Oil Well Supply Co.

Mr. PORTER. And what is the Oil Well Supply Co., Mr. Schaefer?

Mr. SCHAEFER. The Oil Well Supply Co. is the principal distribu-

tor, I believe, of the National Tube Corporation, which in turn is a subsidiary of the United States Steel Corporation.

Mr. PORTER. Mr. Schaefer, I show you a memorandum dated October 1, 1938, signed by you, and addressed to Mr. A. J. Powers, Fort Worth, Tex. I take it Mr. Powers is a member of your staff.

Mr. SCHAEFER. Powers is our field man.

Mr. PORTER. Will you identify that, please?

Mr. SCHAEFER. Yes.

Mr. PORTER. Mr. Chairman, I offer this memorandum to be placed on file with the committee. It need not be printed in its entirety.

Acting Chairman WILLIAMS. It may be accepted.

(The letter referred to was marked "Exhibit No. 1435" and is on file with the committee.)

Mr. PORTER. I should like to read just one paragraph from this memorandum. This memorandum, I might repeat, is dated October 1, 1938. [Reading:]

> Just recently we were threatened with another upset. We have said nothing to you but you probably did hear that National was out for a few days offering to accept orders for Seamless "B" Casing and meeting the Lapweld price.

Is it fair to understand that "National" there means the National Tube Company?

> This was rather disturbing news but we understand that this privilege has been withdrawn and no "B" Seamless will be offered, or orders accepted, at the Lapweld figure.

Is that substantially your reaction of what occurred?

Mr. SCHAEFER. I would say it is.

Mr. PORTER. Mr. Roberts, does your recollection concur with that of Mr. Schaefer with respect to these few days during which the price of grade B seamless casing was reduced to meet the lap-weld prices?

Mr. ROBERTS. Yes; our information is substantially the same as that given by Mr. Schaefer to our Tulsa, Okla., office and the information that we got was exactly the same as the testimony by Mr. Schaefer.

Mr. PORTER. What was your reaction to this information when you received it, Mr. Roberts?

Mr. ROBERTS. Well, we were completely dumfounded. Looking at the situation in dollars and cents we couldn't see how we could exist if that condition went on, because the price of pipe had gotten so low at that time that there was no spread between the cost of the raw materials, the skelp, and other materials which we used and the finished products to enable us to continue in existence.

Mr. PORTER. In other words, these circumstances constituted substantially a situation analogous to the hypothetical case which I suggested to you early in your testimony yesterday, a case in which the price of the finished article which you produce is reduced without a comparable reduction in the price of the raw material which you buy, namely skelp. Is that correct?

Mr. ROBERTS. That is correct.

Mr. PORTER. So that the margin under which you operate was substantially curtailed.

Mr. ROBERTS. That is correct.

Mr. PORTER. Mr. Schaefer, are the same comments generally applicable to the position of your company with respect to this event?

Mr. SCHAEFER. Mr. Porter, I might say that our company was of course surprised at that action, but it had to meet the price of lap-weld. We had discussed this and we have been thinking about it a long time, on account of the small amount of lap-weld oil-country goods that we sell that possibly our machinery and method of making pipe was outmoded, and probably we would have, if we wanted to stay in the casing business, the oil-country business, to revert to some other method of making pipe.

Mr. PORTER. By that you mean change to the manufacture of some other type of pipe.

Mr. SCHAEFER. Seamless or electric welding. If seamless was the article that the consumer wanted and he could set it at greater depth than we could offer, wells were going deeper and deeper, the consumer wouldn't consider putting lap-weld in the deep well, so if we wanted to stay in the oil-country business we were not ready at that time to make a decision, we were thinking very seriously of what our next move would be.

Mr. PORTER. Just parenthetically let me ask you this: At that time did the Wheeling Steel Corporation have facilities for the manufacture of any other type of tubular product?

Mr. SCHAEFER. Yes, sir.

Mr. PORTER. What type?

Mr. SCHAEFER. Standard pipe of butt-weld and lap-weld and line pipe.

Mr. PORTER. But not seamless?

Mr. SCHAEFER. Not seamless, no.

Mr. PORTER. Reverting for a moment to the question of the Wheeling Steel Corporation's reaction to this reduction in the price of grade B seamless, I show you a memorandum dated October 24, 1938, addressed by you to Mr. I. G. Thompson at the Dallas office of your company.

Mr. SCHAEFER. That is my letter.

(Senator King assumed the Chair.)

Mr. PORTER. Mr. Chairman, I offer this memorandum of October 24, 1938, from Mr. Schaefer to Mr. Thompson, both of the Wheeling Steel Corporation, to be placed on file with the committee.

Acting Chairman KING. It may be received.

(The letter referred to was marked "Exhibit No. 1436" and is on file with the Committee.)

Mr. PORTER. I should like to read just one paragraph of this memorandum.

> The past week has been more than quiet and, no doubt, this condition was brought about on account of the reductions made in Crude prices and the holding of pro-ration to previous figures, and there is no question in the writer's mind that when our chief competitor for a few days only put down Seamless "B" to Lapweld prices they did considerable damage; probably more than any of us can figure out for there is no question but what they took in a lot of tonnage. Of course, they were not able to get all the Pipe going but the chances are that they were able to pick up the "cream" and until this is disposed of things may be a little slow.

In the latter part of that passage which I read, Mr. Schaefer, were you referring to the events of the last week or so of September which we mentioned before?

Mr. SCHAEFER. Yes; might I say right here, you notice that I use in about the fifth line of our letter the words "our chief competitor." That is a mistake. They were not our chief competitor in lap-weld.

Mr. PORTER. That is, they had withdrawn from the manufacture of lap-weld.

Mr. SCHAEFER. Yes.

Mr. PORTER. Can you state whether or not the National Tube Co. was still marketing lap-weld products?

Mr. SCHAEFER. I couldn't state. They probably had some lap-weld materials that they had to get rid of.

Acting Chairman KING. You modify that statement then that you nominate them chief competitor.

Mr. SCHAEFER. Well, chief competitor going out of the lap-weld business, they were not a chief competitor.

Acting Chairman KING. You said so.

Mr. SCHAEFER. I know in that letter. That is the wrong use of the word.

Mr. O'CONNELL. They were still making seamless?

Mr. SCHAEFER. Oh, yes.

Mr. O'CONNELL. That is in competition with lap-weld.

Mr. SCHAEFER. Yes, surely, on account of the setting depths.

Mr. O'CONNELL. Do you intend that National is a competitor of yours but not necessarily the chief competitor?

Mr. SCHAEFER. I had reference there to the lap-weld putting the price of seamless down to lap-weld. It would be a competitor in the lap-weld in that case.

Of course they were competition. The seamless was in competition against lap-weld. It surely was.

Mr. PORTER. Just to clarify this point, you were, in this passage under discussion, referring again to the events of the latter part of September 1938 when the National Tube Co. reduced for a short period the prices of grade B seamless to a level directly competitive with lap-weld oil country products. Is that correct?

Mr. SCHAEFER. That is right, because any consumer who is using lap-weld casing, whether service casing or what-not, and could get it at the lap-weld price would have been foolish not to have purchased it.

Mr. PORTER. And you were saying the obvious in this letter, that is that that action, to use your phrase, "did considerable damage," and again to quote you, "that they took in a lot of tonnage inevitably."

Mr. SCHAEFER. That was a guess on my part that they would.

Mr. PORTER. That was your reaction to that move?

Mr. SCHAEFER. Yes; that they took in a lot of tonnage; they took in some tonnage. As I say, where seamless is used, especially in the Mid-Continent field, and so forth, they would jump at the chance.

Acting Chairman KING. You expected competition, didn't you?

Mr. SCHAEFER. We expected competition; yes. We had been thinking about this for a long time.

Acting Chairman KING. There was competition in the production of the commodities manufactured by your organization?

Mr. SCHAEFER. There was competition; yes.

Mr. PORTER. Is it fair to say, Mr. Schaefer, that this is the first occasion on which the customary price differential in favor of lap-weld as against seamless had been substantially eliminated?

Mr. SCHAEFER. Substantially eliminated on the tonnage item.

Mr. PORTER. This was the first occasion in which that had been true?

Mr. SCHAEFER. I believe that is so.

Mr. PORTER. Mr. Roberts, I show you now a document bearing a heading, "Memo," dated September 29, 1938, addressed to you, which bears no signature. In pencil in the upper right-hand corner there appears the legend: "Brought by G. W. S. from Pittsburgh trip," with the initials below "J. W. C." I ask you to identify this letter.

Mr. ROBERTS. Yes; I recall that letter.

Mr. PORTER. Mr. Chairman, I offer this letter to be printed.

Acting Chairman KING. The one addressed to Mr. C. H. Roberts?

Mr. PORTER. That is correct.

Acting Chairman KING. It may be received.

(The letter referred to was marked "Exhibit No. 1437," and is included in the appendix on p. 11009.)

Mr. PORTER. I should like to read portions of the letter.

The matter outlined below is in strict confidence and has been received by the writer since return of the gentleman from New York whom we mentioned by telephone. Naturally, to gain the end which the other mills wanted, that is not to have the National Tube Company quote prices on seamless material which would meet with lapweld competition, it was very necessary for these other mills to give up something in return. Through the same and another source we have today checked a second meeting of manufacturers other than the National Tube Company to be held in a few days. As it stands at the moment, the thing resolves itself as follows.

I think that it is unnecessary to read any more of the letter at this point. Mr. Roberts, what can you tell us of the facts which the first two paragraphs of this letter that I have just read describe?

Mr. ROBERTS. The memorandum at the top has reference to Mr. G. W. Sweet, our general superintendent, who happened to be in Pittsburgh the day that this memorandum was written. He was there on a business trip and he has nothing whatever to do with sales or anything of that nature. He was there on a business trip, on some machinery, and he also had some business at Beaver Falls, Pa.

Mr. PORTER. In other words, he was merely the messenger who brought this letter from Pittsburgh.

Mr. ROBERTS. That is right. It isn't the custom of our company to write memos, and I have been given to understand by Mr. Gibson, who wrote this, that his reason for writing a memo was that Mr. Sweet was in a hurry to catch a train back to Chester and he hurriedly dictated a memorandum which he didn't even have time to sign.

Mr. PORTER. My question was whether you could describe the events to which the first two paragraphs of this letter relate. Would you rather have me direct that question to Mr. Gibson?

Mr. ROBERTS. As he wrote the letter perhaps he would be better able to explain.

Mr. PORTER. Very well, Mr. Gibson.

Mr. GIBSON. You directed your question concerning the first two paragraphs?

Mr. PORTER. That is right.

Mr. GIBSON: The first paragraph, of course, relating to the fact that this message was to be held in strict confidence, was mainly due to respective persons from whom I had secured the information, and naturally we didn't want to make that common property. Second, may I refer to this to refresh my memory on it? I would like to say here, at this point, that amplification of this and other subjects, I

think I touched upon this yesterday very briefly, that we as the smallest manufacturer of oil country tubular goods in this country, having roughly only seven men to dispose of all of the product, and my being located in Pittsburgh, makes it part of my duty to gather all of the information pertinent to anything which concerns the industry, and relay it immediately to the home office. In many instances that information is valueless, it is in most instances rumor, gossip, as I mentioned yesterday, Pittsburgh being the capital of the steel industry, so called, and a great many of us know each other quite well, we of course exchange information of a general nature, and of as a specific nature as we possibly can, and this was the result of the exchange of such information.

The second paragraph states specifically, "checked second meeting of manufacturers, other than the National Tube Co., to be held in a few days." That meeting, to the best of my knowledge was never held. I do not know of any meeting which was ever held, and have never been invited to attend any meeting which was ever held.

Mr. PORTER. I take it, however, that you knew of a first meeting of manufacturers, since you speak of a second meeting.

Mr. GIBSON. I knew of a discussion of manufacturers prior to that time. We must go back, I think there, Mr. Porter, to the fact that the National Tube Co. having discontinued the manufacture of oil country Lapweld products, left, as has been stated repeatedly, the rest of the industry who had such equipment and had been manufacturing that in various quantities, considerably in an uproar. Every one wanted to know what their policy was to be insofar as the continuance of manufacture of that type of product. And naturally it was the subject of, I might say, very general discussion. It was on every one's mind who had anything to do with the manufacture of steel pipe, and as far as meetings are concerned, I would like to amplify that to state that I do not believe that they were formal meetings to discuss these particular problems, but certainly everyone contacted each other to find out what their position should be, and what attitude they should take insofar as the production of this type of material should be.

Acting Chairman KING. Should or would?

Mr. GIBSON. Should, sir.

Mr. PORTER. In addition to the problem raised by the withdrawal of the National Tube Co. from the manufacture of lapweld oil country products, there was also, was there not, the problem which you state in the second paragraph of this letter, in the following words:

> Not to have the National Tube Company quote prices on Seamless material which would meet Lapweld competition.

Mr. GIBSON. That was a decided problem; yes; and a very vital one to ourselves. I believe in some degree it was vital to other manufacturers who had still continued to have quite a large capital investment in equipment to manufacture Lapweld products.

Mr. PORTER. Is it a fair inference from this paragraph and from what you have just said, that among the topics discussed by the other manufacturers of Lapweld products in these conversations of which you have spoken, was the step or steps, to quote you, necessary for these other mills to give up something in return for the readiness,

we'll say, of the National Tube Co. to cease quoting prices on Seamless materials which would be in direct competition with Lapweld?

Mr. GIBSON. That was mentioned as a matter of street gossip. I felt quite disposed, from the reasons stated a few moments ago—the report got to my home office, but the very validity of the statement is explainable in the fact that that never occurred.

Mr. PORTER. You will recall, Mr. Gibson, as you look at this letter, that in the third, fourth, fifth, sixth, and seventh paragraphs, you outline with some particularity, the steps to be taken by various producers of Lapweld, steps which it would seem were in the nature of an execution of the arrangement which you suggest in the second paragraph, that is the steps necessary to get the National Tube Company to cease quoting on Seamless prices in direct competition with Lapweld.

Mr. GIBSON. I would prefer the interpretation of that in this respect, that that would be the logical thing for them to do or be forced to do by virtue of competition.

Mr. PORTER. I call your attention, however, to the fact that you use the future tense.

Mr. GIBSON. That is quite correct.

Mr. PORTER. In several cases. You say, for example,

> the National Tube Company will leave as they are at the moment the prices for grade B Seamless.
>
> Youngstown, Spang Chalfant, Jones & Laughlin, and Republic Steel will discontinue the manufacture of lapweld pipe.

Was that a prediction which you were making on your own recognizance, or was that a statement of something which you knew to be a fact?

Mr. GIBSON. I did not know that to be a fact at all. It may possibly have been a wish before the thought, but the fact that many of those things transpired as factual.

Mr. PORTER. To what extent, Mr. Gibson, did the South Chester Tube Co., either through you or someone else, participate in these discussions?

Mr. GIBSON. In which discussions, please, Mr. Porter?

Mr. PORTER. The ones you mentioned in your testimony.

Mr. GIBSON. The only participation were those I mentioned a moment ago, to the effect that they were quite common points of gossip and discussion among all representatives of pipe manufacturers on the street or wherever we chanced to meet.

Mr. PORTER. I should like to call your attention——

Acting Chairman KING (interposing). May I ask a question there. Well, these discussions, which you have rather cavalierly passed over—I don't say that by way of criticism—did they eventuate in the fixing of prices under an agreement under the terms of which some companies would abandon the manufacture in which they were engaged, and others take up the slack, so to speak, or receive the benefits that might be obtained by the abandonment of one?

Mr. GIBSON. They most certainly did not, Mr. Senator.

Acting Chairman KING. What was the purpose of those discussions?

Mr. GIBSON. The purpose of those discussions, from my point of view, which is the only one I can speak authoritatively for, is basically, we were in a very, very confused state. It was chaotic. Here we

had manufactured a product for upwards of 40 years with a price differential between that of the seamless oil country goods, which of course was not in existence for 50 years but since its entry in the industry, and here we were, faced with a condition in which a seamless product, an admittedly superior product, to which I testified yesterday, was being offered at the same price as the old lapweld oil country tubular goods. I can amplify my statement that these were probably more wishes, in regard to some portions of this letter, than possibly anything else. None of the facts contained therein—that is none of the statements set forth therein, have become an actuality at all.

Acting Chairman KING. Well, does this sentence or phrase mean anything, or is it absolutely innocuous, "It was very necessary for these other mills to give up something in return." What did you mean by that. Did they give up anything in return, if so, what, and what was the benefit to be derived by the renunciation of the rights which they enjoyed?

Mr. GIBSON. They did not give up anything in return whatever, and the very fact that you state it is innocuous, I would say, not contradictorily, but it was probably a very blind guess upon my part.

Acting Chairman KING. It seems to me it is better to have employees or officials that don't make blind guesses. That is just an observation.

Mr. GIBSON. I amplified that at the start of this testimony, in answer to Mr. Porter's question, Mr. Senator, that I am very well aware of the fact that communications which go between me and my home office are not even a small percentage actualities.

Acting Chairman KING. Don't you think the home office would profit more by receiving information that was not guesses and that were actualities, rather than prophecies, perhaps, not based upon any facts?

Mr. GIBSON. They doubtless would, sir, if you could secure them all as actualities. But perhaps as general statement, things which are being talked of and things which are being discussed, and I repeat the statement I made a few moments ago, that Pittsburgh being the center of the manufacture of steel in the large majority, we all know each other and we discuss these problems in the main.

Acting Chairman KING. Just one other question. Did any organization give up something in return for an abandonment of the production of certain commodities in which they were engaged?

Mr. GIBSON. No, sir; to the best of my knowledge no.

Acting Chairman KING. Proceed.

Mr. PORTER. One more question with respect to the meeting or meetings which you mentioned in your letter, Mr. Gibson. I would like to direct your attention for a moment to the next to the last paragraph on the first page of this letter, which reads as follows: [reading further from "Exhibit No. 1437"]:

> In so far as the South Chester Tube Company is concerned, as has been stated this afternoon, neither the National Tube nor a meeting of the other mills feel they should take the responsibility of determining or suggesting any policy for us to follow, as they would not want to be confronted at Washington, since we make no other product in the way of pipe, and not even any other products manufactured of steel.

Did you know that to be the view, both of the National Tube Co. and of a meeting of the other mills?

Mr. Gibson. Answering the last question first, I did not know of a meeting of the other mills, nor did I know that any had ever been held, if any such have ever been held, never having attended them or never having been invited to attend them.

Mr. Porter. How did you happen to use that language?

Mr. Gibson. That probably is not a very good choice of words. This was dictated in quite a hurry, as Mr. Roberts testified, and I would say that I did, however, make a canvass of opinion of the other mills by telephone, by meeting representatives on the street, and may I go back to the basic factor of this, which was established in Mr. Schaefer's testimony, I believe, that with the National Tube Co. not participating in the market for lap-weld oil-country goods, it was felt perhaps the mills which exclusively made lap-weld material should perhaps take the lead in announcing the price. Does that answer your question, Mr. Porter?

Mr. Porter. I don't think it answers my question, and I don't think you make yourself clear as to the significance of this point.

Mr. Gibson. In what respect?

Mr. Henderson. I think you might ask the witness concerning "as has been stated this afternoon." Who stated it to you that afternoon?

Mr. Gibson. May I refer to this again?

In what paragraph?

Mr. Henderson. The last paragraph:

In so far as the South Chester Tube Company is concerned, as has been stated this afternoon—

Who stated that to whom that afternoon?

Mr. Gibson. Mr. Henderson, I can't recall that. I don't recall who stated what to whom in that instance. That is a telephone call by me to Mr. Roberts.

Mr. Henderson. Now, where did you get the information that you telephoned Mr. Roberts?

Mr. Gibson. The information was gathered from personal contacts——

Mr. Henderson (interposing). We have been through that. I didn't ask you what class or variety of people, or whether you got it on the street or got it out of the air. Whom did you talk to, specifically?

Mr. Gibson. I am afraid I couldn't answer that specifically as to whom I talked to.

Mr. Henderson. Can you tell me one you talked to?

Mr. Gibson. I can tell you a number of people I talked to during this transition period or very chaotic period in the pipe industry, which I believe lasted 4 or 5 days. As I have stated before, we in Pittsburgh know each other rather well. It is a matter of record that I have talked to Mr. Schaefer, I have talked to representatives of the Youngstown Sheet and Tube Co., representatives of Jones & Laughlin Co.

Mr. Henderson. Let's get off the generality, it isn't even glittering. With respect to this specific item about which you telephoned Mr. Roberts, whom did you talk to?

Mr. Gibson. I can't answer that specifically as to this particular conversation.

Mr. Henderson. You can't answer as to anyone?

Mr. Gibson. Not as refers to this particular paragraph in this letter; sir, no.

Mr. Henderson. Now, which do you want me to believe, that you can't remember, or that it is inconvenient for you to testify on it? If it is embarrassing for you, and the like, I would much prefer, and I think the committee would, that you say, "It is embarrassing for me on account of the position I have in my company, and the position my company has in this trade, and on account of the nature of the information discussed here, to say it," because I find it difficult to believe that you can't remember where you got the information.

Mr. Gibson. I don't believe it is the position of my company or my counsel to want me to be nonspecific in the mentioning of any particular names. If you will bear in mind, please, sir, Mr. Henderson, that during this period we were running around very chaotically trying to find out what the future of our product and our sole existence was, and I might go even a step further, sir, and say that I was deliberately trying to stir everybody up that I could to find out what their attitude was going to be on the future of a product which is our sole source of revenue.

Mr. Henderson. We have here a letter to which great importance was attached by the writer on its confidential nature. It specifically recites engagements, undertakings, mentions specific companies, and all you can tell me is that "I was running around Pittsburgh, the center of the industry, and talked to people on the street, and this is what I got and only a small part of it will assay as the truth." Is that the impression you want to leave with the committee about the memorandum?

Mr. Gibson. As factual, yes, sir.

Mr. Henderson. And do you want the committee to understand that you can't remember who told you what?

Mr. Gibson. Not in that particular paragraph of that letter, which is about 14 months ago, and as I previously stated, I was trying to contact everyone. Naturally, however, in my position as district sales manager of the smallest oil country lap-weld tubular manufacturer in the United States, I wasn't contacting officials. I was contacting sales personnel, who are my most intimate connections in those organizations.

Mr. G. W. Witney (general counsel, South Chester Tube Co.). I would like to tell you as general counsel for the company that the answers Mr. Gibson is giving to you are the same answers he has given to me after very close cross-examination. He does not remember, as far as I can find out.

Mr. Henderson. In response to that, I say, Mr. Chairman, perhaps a little more specifically than you intimated, I find it difficult to believe that.

Mr. Witney. You mean my statement.

Mr. Henderson. No; not your statement. I find it difficult to believe that concerning all this information, detailed here with great specificity, the memory process has so completely failed. I find it impossible to believe that American business could be carried on if there were so much evidence of fallen arches in the medulla oblongata.

Mr. Witney. I think I would like to make a statement to the point.

Acting Chairman KING. Are you testifying now?

Mr. WITNEY. I am general counsel for the company.

Acting Chairman KING. If you are general counsel, that wouldn't absolve you from being sworn if you expect to testify to some facts in the matter.

Mr. HENDERSON. I would rather not stand on any technicality.

Acting Chairman KING. Make your statement.

Mr. WITNEY. I think the committee should take into consideration the fact that this is a one-product company in a small community. This company has been in existence since around 1884 in making pipe, tubular products for the oil industry primarily. It manufactures in one process only, the process of taking a piece of skelp and folding it and making it into a tube, a lap-weld product, so-called. They have just the one furnace and the one product, one mill. They are in this small community with perhaps from 500 to 800 employees, many of whom are a third generation of people who are working for the company. They have a pier on the Delaware River. If it were not for this they would not be able to compete in the Texas field. They are able to ship by water at low rates. They could not ship by rail and compete with the Pittsburgh mills. These people have had a very close interest in the development of the pipe business in the oil fields. Everything they know about that business is learned through six or seven district offices that are operated by individual salesmen, of which Mr. Gibson is one. Mr. Gibson is in the Pittsburgh office. His father was there before him, and his grandfather. These people have to keep in touch with current conditions. They cannot do it by telephone. They do it by an exchange of letters. Unfortunately the letters have been kept—possibly it is unfortunate for the company—and your committee have unearthed those letters.

I think in reviewing, the committee in considering these letters—they should take into consideration the size of the company, the fact that the men handling those letters were salesmen reporting to their sales manager in a very small company. A lot of the information, of course, is gossip, a lot of it suspicion, a lot is wish, a lot is rumor. Some of it, of course, is factual. The sales manager has to take the information that he gets from the various district offices and sift it and make his decisions in cooperation with the officials of the company. There are only three officials of the company. The president of the company is a very fine gentleman who has been sick for nearly 4 years. These men have had to make their decisions possibly without his help and cooperation. The only way they can make their decisions is by reviewing the information which they gather through their salesmen in the field. It is unfortunate that this small company, which depends entirely upon production of one product in the industry, should be brought here and made such a common thing of, and that their individual correspondence with their salesmen should be brought out to be subject to cross-examination. None of these letters was ever written for any purpose of that kind. I have objected very strongly to the use of these letters by this committee, by the men from it. I have done everything I could to protect the company. I do think these things should be taken into consideration by the committee in reviewing the testimony.

Acting Chairman KING. I am sure the Committee will give due consideration to the evidence that is adduced, and I am sure they will not overlook your statement.

Mr. HENDERSON. May I respond just a moment to that?

Mr. WITNEY. Mr. Henderson has lived in South Chester——

Mr. HENDERSON (interposing). I have known the South Chester Tube Co. for a long while myself. If you will recall, I told the witness what my preferences were in the thing. I know what the difficulties are, and one thing this committee would be interested in is, What are the difficulties of a small company as against a large company? And if I had to guess at this minute about this matter, I would say that one of the things which bulks very largely is what the effect on your company is likely to be in competition as a result of this discussion going on here.

Mr. WITNEY. Would you like me to make a statement to that effect regarding that matter?

Mr. HENDERSON. No; I would rather finish what I have to say.

Mr. WITNEY. Excuse me.

Mr. HENDERSON. I say we are confronted here with deciding whether we take at face value specific statements that are made, or what we are led to guess on things. I said I find it difficult to take the other. Now I will stand on that.

Mr. WITNEY. Not to my knowledge.

Acting Chairman KING. If I may indulge in a conclusion which probably isn't warranted, as I haven't heard all the evidence, it would seem from the statement of counsel as well as the fragmentary part of the testimony which I have heard by the witness, Mr. Gibson, that this is a very small company. Doubtless it is subjected to very great competition, and I assume from what Mr. Gibson said that he is sort of hanging around on the outskirts looking into the activities of the big companies to see whether he is to be permitted to survive.

I agree with Mr. Henderson. Perhaps it would be more illuminating to the committee if we could ascertain just what some of the fears and apprehensions were, and just what some of the contests were, that Mr. Gibson and his company had to pass through in order to survive.

Mr. PORTER. Mr. Chairman, may I just say at this point what should not be necessary for us to say, namely, that it was certainly not the desire of counsel in any way to embarrass the South Chester Tube Co. It happened quite fortuitously that this information came to us via that company, and our interest in the business situation which these letters of this company revealed is of the precise character which you, Mr. Chairman, and Commissioner Henderson have summarized as the character of the problem.

We regret that so much attention has to be given to the specific language of any particular letter, but what we are interested in is the larger problem which all of this material hinges upon.

Acting Chairman KING. Will you proceed? Are there any other questions? Are you through, Mr. Porter?

Mr. PORTER. Not quite, sir.

Mr. Gibson, let me ask you this. Will you state whether or not on or before the date of this last letter, September 29, 1938, the National

Tube Co. did, in fact, cease selling grade B seamless at the lap-weld oil-country price level?

Mr. GIBSON. That is my understanding; yes, sir.

Mr. PORTER. So far as you recall, when did the National Tube Co. cease to do that? Was it before or after you wrote this letter?

Mr. GIBSON. I believe it was prior to that letter. We can refer, if we are permitted, to the first information which we received on the subject, as Mr. Roberts testified, from our Tulsa, Okla., office. May we have an opportunity to ascertain that date?

Mr. HENDERSON. As I gather, Mr. Counsel, the answer was that this is precisely one of the things that did happen.

Mr. PORTER. Yes, sir.

Mr. HENDERSON. And it is a very important matter of policy.

Mr. PORTER. The central fact.

Mr. GIBSON. I beg your indulgence just a moment while we ascertain whether we can find this particular piece of correspondence.

Mr. PORTER. What was your understanding at the time, Mr. Gibson, as to the reasons why the National Tube Co. ceased or rather withdrew the reduced prices on grade B seamless which had been directly competitive with the lap-weld price?

Mr. GIBSON. I can state no knowledge of the National Tube Co.'s reasons for doing any particular thing. Certainly I am not consulted about their actions, but any testimony that I might give to that effect would be pure conjecture.

Mr. PORTER. In view, however, of the wide contacts in the trade in Pittsburgh, of which you have spoken repeatedly, I think the committee would be interested to know your understanding based on whatever information or thoughts you may have had at the time as to the reasons why the National Tube Co. withdrew these lower prices.

Mr. GIBSON. I will testify as to my own personal thoughts in the matter, which is the only thing which would be authentic and they are only my own conjecture in the matter, that they had decided, very possibly, that the tonnage sold in the lap-weld oil-country trade had gotten to such a low percentage that in the total operations that they felt perhaps it was an obsolete method of making pipe which served only a small percentage of the oil industry, and that they were very probably from the point of view of operation, manufacturing and selling what little they did of this particular commodity at perhaps a loss, therefore that there was no need of it in their manufacturing set-up from that date hence. That I repeat is only my own conjecture and I don't believe I would be qualified to give reasons why the National Tube Co. would take any action whatever.

Mr. PORTER. If I understand you, what you are testifying to is your conjecture as to the reasons why National Tube Co. decided to withdraw from the manufacture of lap-weld products. My question to you, however, was your understanding or conjecture as to the reasons why the National Tube Co. decided to withdraw the lower prices on grade B seamless which had been in effect for a period of a few days in the last week of September 1938.

Mr. GIBSON. I repeat that I can't give any answer which would be their reasons, and reasons that I could give would be only supposition upon my part.

Mr. PORTER. As I have said, I think the committee would be interested to hear you on that.

Mr. GIBSON. On my personal supposition as to why that would be undertaken? Well, possibly this would be one reason. As I say, I am not trying to speak for the attitude or the action of the National Tube Co. Undoubtedly they had some lap-weld material in stock which they wanted to dispose of. Naturally, in the economic follow-up of that thought, they wanted to dispose of it at the best possible price they could get, and possibly they thought that their announcement of the discontinuance of further manufacture of lap-weld oil-country goods would lead those in the industry to follow suit. That would of course make a cumulative total of quite a considerable tonnage of stocks in various parts of this country which as a follow-up to the National Tube Co.'s discontinuance of that product might have the reaction on the other manufacturers to dispose of their stocks at quite concessionary prices. That is purely my own conjecture.

Mr. PORTER. Again, as I understand it, you are addressing yourself to possible reasons for the National Tube Co.'s disposal of its lap-weld production. I am asking you, however, for your understanding or conjecture as to the reasons why the National Tube Co. withdrew the reduced prices on grade B seamless which it had put into effect for a few days in the last week of September 1938, and which during those few days had been directly competitive price-wise with the lap-weld lists.

Mr. GIBSON. You say directly competitive price-wise; there was a spread. Now I can't testify as an economist. In my own conjecture perhaps this action might stop the action or the supposed or presumed actions of other manufacturers in disposing of existing stocks of lap-weld material at ruinous prices. Certainly there would be no incentive for a producer of oil, "operator" as we commonly term them, to purchase any lap-weld pipe when he could secure seamless at the same price, and following that up to what I hope is a logical conclusion, the lap-weld stocks in the hands of other operators probably lie dormant.

Mr. HENDERSON. Your conjecture is that National Tube didn't find this out until they had put through grade B at the lap-weld price and then they reversed their action.

Mr. GIBSON. Will you state that again please, Mr. Henderson?

Mr. HENDERSON. National Tube had taken an action in putting grade B in competition with the lap-weld. Isn't that correct?

Mr. GIBSON. They had taken an action in placing grade B as a competitive item to lap-weld?

Mr. HENDERSON. Yes.

Mr. GIBSON. When they announced the——

Mr. HENDERSON (interposing). Yes; they had already announced that?

Mr. GIBSON. Yes.

Mr. HENDERSON. This would suggest that they were going to reverse that by discontinuance and bring back the spread, and your conjecture is that they didn't realize before what the effect of bringing down the seamless would have on their own stocks of lap-weld.

Mr. GIBSON. And other stocks, too, perhaps; yes; I will answer that question; yes; generally, yes.

Mr. HENDERSON. They realized that after they had taken the action it was probably disadvantageous to their own lap-weld and other stocks.

Mr. GIBSON. I would answer that question generally yes, sir, as a presumption of the action of the National Tube Company.

Mr. PORTER. Mr. Schaefer, I should like to show you a memorandum signed by you dated October 1, 1938, and addressed to Mr. I. G. Thompson, Dallas office of the Wheeling Steel Corporation. Would you identify that, please?

Mr. SCHAEFER. Yes, sir.

Acting Chairman KING. Wheeling Steel is a Texas Corporation?

Mr. PORTER. A producer of steel and steel products, including in the field of pipe and tubular products, lapweld oil country goods of the same character as the products of the South Chester Tube Co.

Acting Chairman KING. You stated Dallas, Tex.

Mr. PORTER. The Dallas Office of the Wheeling Steel Corporation. I should like to offer this to be placed on file with the committee.

Acting Chairman King. It may be received.

(The memorandum referred to was marked "Exhibit No. 1438" and is on file with the Committee.)

Mr. PORTER. I will read just a paragraph or two, and I may repeat that this memorandum is dated October 1, 1938. [Reading:]

> As you know, for the past four months we have had unheard of conditions surrounding the distribution of Oil Country Goods and one that loomed up very seriously was the threat that "B" Seamless would be permanently on a Lapweld basis. You probably know that no official announcement was made of this fact but that in a few instances National did quote on and accept some "B" Seamless at Lapweld prices.
>
> From developments the past day or two, you now probably know that this situation has cleared up and we understand that it will not be possible to secure "B" Seamless at the same price as Lapweld material and, of course, we are very thankful that this decision has come about.

Mr. Schaefer, what specifically did you have in mind when you used this language:.

> From developments the past day or two you now probably know that this situation has cleared up.

Mr. SCHAEFER. Well, the fact is that the Dallas office knew of the withdrawal of the "B" seamless, that they were making the "B" seamless at the lap-weld price. He knew that. They heard that in Texas.

Mr. PORTER. You say he knew that from developments the past day or two. What were the developments that you had in mind there?

Mr. SCHAEFER. The developments were withdrawing the latter part of September the selling of "B" seamless at the lap-weld price.

Mr. PORTER. I don't want to labor the point, but as I understand it you are saying he knew of that withdrawal from developments of the past day or two, and I am asking what the developments were.

Mr. SCHAEFER. He knew of the developments because his own jobbers down there told him that the price had been withdrawn.

Mr. PORTER. So the developments were the withdrawal of the price.

Mr. SCHAEFER. Yes.

Mr. PORTER. That is the only thing you had in mind.

Mr. SCHAEFER. That is the only thing.

Mr. PORTER. What was your understanding at the time, Mr. Schaefer, as to the reasons for National Tube Co.'s withdrawal of those reduced prices?

Mr. SCHAEFER. I do not know the reason why they put it in or why they withdrew it, Mr. Porter.

Mr. PORTER. You probably had views, however, at that time. I wonder if you wouldn't state them for the committee.

Mr. SCHAEFER. I didn't go into the reviewing of this matter to any extent. We had "B" seamless in stock and we had lap-weld in stock. The matter of concern to me was that if the "B" seamless was to be placed at the lap-weld price, while we were not possibly as seriously affected as Mr. Gibson is testifying, it remained that we probably, the Wheeling Steel Corporation, would have to go out of the lap-weld business. As much as we would regret to discard the machinery for making lap-weld, if it was an item that was passé, let us say, an item that there was not much use for (as our records would indicate the amount of lap-weld oil country we sold was a very small portion of our business), we would have either to find some other use for that particular steel that we put in lap-weld oil-country goods or possibly decide to go into the manufacture, to hold our position in the industry, of a seamless or just as good a material.

Acting Chairman KING. There was competition between the two products, the seamless and lap weld.

Mr. SCHAEFER. There was competition, you might say, yes; that is if we wanted to stay in the lap-weld business we couldn't sell it at the price of seamless.

Acting Chairman KING. Was that your primary product?

Mr. SCHAEFER. That was one of them.

Acting Chairman KING. Was it secondary?

Mr. SCHAEFER. We manufacture the lap weld from the ore for the finished product.

Acting Chairman KING. What I am trying to get at is this: was the lap weld a very important factor in your production?

Mr. SCHAEFER. No; I don't think it amounted to 2½ percent.

Acting Chairman KING. Did you contemplate if prices became so low that you would have to abandon your production of lap weld and continue your activities in other directions?

Mr. SCHAEFER. That is right.

Acting Chairman KING. Is that what you had in mind?

Mr. SCHAEFER. That is right. If we were in, you might say, the horse and buggy stage so far as lap weld was concerned and the march of progress showed seamless was the item, we might as well get out of it.

Acting Chairman KING. The evidence was that seamless was in the dynamic period and lap-weld was in the horse and buggy period.

Mr. SCHAEFER. Absolutely. You couldn't take some lap weld and set it at the depths the boys wanted to go because they were always going deeper and deeper and they wouldn't take a chance on lap-weld.

Mr. PORTER. Just to make it clear, however, Mr. Schaefer, it is true, is it not, that in the field of oil country tubular products your production of lap-weld was a primary phase of your business.

Mr. SCHAEFER. You mean the total of our lap-weld to the total of the lap-weld in the industry?

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Mr. PORTER. I mean the total of your lap-weld oil-country production to the total of all your oil country tubular production.

Mr. SCHAEFER. The total of ours?

Mr. PORTER. Yes. In other words, I think the record shows that so far as your own manufacture is concerned you were exclusively a manufacturer of lap-weld oil-country products.

Mr. SCHAEFER. That is right.

Mr. PORTER. You manufactured no other oil country tubular product.

Mr. SCHAEFER. No; only in lap-weld.

Mr. PORTER. Mr. Chairman, I would like to call Mr. Goble of the National Tube Co.

Acting Chairman KING. Do you excuse Mr. Schaefer?

Mr. PORTER. Yes; and Mr. Strickland, Mr. Gibson, and Mr. Roberts.

Acting Chairman KING. Thank you, gentlemen.

Mr. Goble, do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. GOBLE. I do.

TESTIMONY OF JOHN E. GOBLE, VICE PRESIDENT IN CHARGE OF SALES, NATIONAL TUBE CO., PITTSBURGH, PA.

Acting Chairman KING. Will you give your name and address to the reporter?

Mr. GOBLE. John E. Goble, Pittsburgh, Pa.

Mr. PORTER. And your position, Mr. Goble?

Mr. GOBLE. Vice president in charge of sales.

Mr. PORTER. Of what company?

Mr. GOBLE. National Tube Co.

Mr. PORTER. National Tube Co., as has been testified to before, is a subsidiary of United States Steel Corporation?

Mr. GOBLE. Yes, sir.

Mr. PORTER. Will you state very briefly the products of the National Tube Co.?

Mr. GOBLE. The products of the National Tube Co. may be divided into four general classes: standard pipe, oil-country goods, line pipe, and miscellaneous.

Mr. PORTER. And in the field of oil-country goods what are the principal products of the company?

Mr. GOBLE. Seamless, principally; seamless oil-country goods.

Mr. PORTER. The National Tube Co. was until sometime in 1938, however, a manufacturer also of lap-weld oil-country goods. Is that right?

Mr. GOBLE. That is true.

PRICING OF SEAMLESS PIPE

Mr. PORTER. As you know—I think you have been present during much of the recent testimony both yesterday afternoon and this morning—the National Tube Co. has been mentioned a number of times. I think your name has also occurred in the course of the

testimony. I should like to ask you first, Mr. Goble, to state the reasons, so far as you know them, for the reduction in price during the last week of September 1938, of the grade B seamless oil country products by the National Tube Co. to a level substantially competitive price-wise with lap-weld oil-country products.

Mr. GOBLE. It is a rather long story, Mr. Porter. If you will permit me to give the complete story I will be glad to, if you will be just a little bit patient so that I may state all the reasons and reactions we were having during the period.

Mr. PORTER. All right. Let me ask you this for my own information. Are you going back to some time previous to this period in the last week of September?

Mr. GOBLE. I intend to; yes, sir.

Mr. PORTER. How far back?

Mr. GOBLE. To 1936, at the time I became employed by the National Tube Co.

Mr. PORTER. All right.

Mr. GOBLE. During 1936 we, for competitive reasons, reduced the price of certain of our products the first of January and again in April, I believe those were the dates. In 1937, as I believe you have the evidence, we increased the prices of all of our products. Then in 1938 came the reductions.

Mr. PORTER. That was June 24.

Mr. GOBLE. I believe that we announced it sometime around the 22d or 24th of June. The prices were effective as of July 1.

Acting Chairman KING. Were those reductions the result of competition or decline in business?

Mr. GOBLE. Will you repeat that, please?

Acting Chairman KING. Were those reductions to which you have just referred the result of a decline in business or extreme competition?

Mr. GOBLE. The reductions which we made in 1936 were due to extreme competition; we had to meet competitive prices in certain lines.

Mr. HENDERSON. In 1938 it was part of the general posting of new prices by the Corporation?

Mr. GOBLE. Yes, sir.

Mr. FELLER. Just to clarify, Mr. Goble, you may perhaps know that Mr. Fairless testified with respect to the price changes in 1936 and he spoke, if I recall correctly, about correcting a distortion or imbalance which had occurred during the depression between the various products which the Corporation manufactured. Was this reduction in some of these products that you are talking about part of the attempt to bring the, shall I say, margins of differentials between various products into line?

Mr. GOBLE. It was in some cases. For instance, the differentials which were established with respect to line pipe and standard pipe, their being related items; there were certain reasons for correlating those prices, but the price reductions in 1936 were made purely for competitive reasons.

Acting Chairman KING. You will discuss that generally, will you?

Mr. GOBLE. Yes, sir.

Acting Chairman KING. Then I think those things will be brought out with your paper and you may proceed.

Mr. Goble. For a number of years we have been perfecting the technique of making seamless pipe, through technological development and through improvement in our practices. During these years the requirements of the trade, referring to oil country goods, have changed tremendously. In the old days a majority of the wells were shallow depth. Times have changed, and the majority of the wells became deeper.

Prior to 1938, July 1938, we were manufacturing three grades of what we call oil-country goods. I don't want to be too technical, but I think it is important that you understand the relationship between those grades. The lowest grade of goods which we made was a lap-weld casing. The next grade was a seamless grade C, and the highest grade which we manufactured was a seamless grade D. The relationship of those grades—incidentally, I believe it has already been stated but I would like to clarify it—it is generally conceded in the industry that the gage of a product is its yield point strength.

Those grades that we manufactured prior to 1938 were lap-weld with a minimum yield of approximately 30,000 pounds; grade C, with a minimum yield of approximately 45,000 pounds; and grade D, with a minimum yield of 55,000 pounds.

As the years have gone by it became evident to us that these grades were not ample to serve the requirements due to the changing drilling conditions. We thought it was advisable to completely reconstruct our schedules and bring out new grades.

I might say that we had been continually losing our position in the sale of the low-grade item, although we made, as I have stated, a lap-weld low-grade material. But we had been losing our position because our production had been going down in lap-weld for a number of years. We were not able to compete. I think probably Mr. Feller has records sufficient to show that during this period prior to 1938 the prices of other lap-weld materials, so far as the public prices were concerned, of which we became advised from time to time through our customers, were considerably below our lap-weld prices. Therefore our sales of lap-weld pipe had been continually decreasing for a considerable period of time.

We thought, therefore, that in view of the necessity for these changes in physical properties, and in view of the fact that our sales of lap-weld pipe had gone down to practically nothing, we should bring out a grade which would put us back in the market in this shallow-well field.

Mr. Porter. That is a seamless product which would be directly competitive with the former lap-weld low-grade product, is that correct?

Mr. Goble. That is right; correct.

During this period there had been certain very important developments in the oil industry where relatively shallow wells were being drilled in large numbers. I refer first to the East Texas field, which was very important to us, and we lost a tremendous amount of tonnage in that field because in many cases lap-weld casing was satisfactory. Our prices on lap-weld casing was not competitive. The result was that we lost our position very rapidly.

Mr. Porter. Pardon me just a moment. Would you care to state why your lap-weld price at that time was not competitive?

Mr. GOBLE. It was probably due to the fact that we had rather large investments in lap-weld equipment, our production was too small, and possibly due to those things it was unprofitable for us to attempt to meet the lap-weld competition.

Mr. HENDERSON. You were selling at the base price, and competitors were selling under it?

Mr. GOBLE. Mr. Henderson, while I don't have any published price sheets of competitors, it is my impression, I believe this is true, and I believe probably Mr. Feller can confirm this, that published prices of other lap-weld manufacturers were considerably below our published prices on lap weld, which we did not attempt to meet.

Mr. FELLER. I'm sorry; I just don't have that information, but I would be very glad to furnish it for the record.

Mr. HENDERSON. It isn't important.

Mr. GOBLE. On the other hand, it is our belief that other lap weld was being manufactured with superior physical properties to ours, and selling at a price below ours.

Acting Chairman KING. Do you mean by that that the steel product or the tube manufactured by your successful competitors had better physical properties than did your product?

Mr. GOBLE. That was the report to us by our engineering department who would, I assume, calculate these physical properties from published setting depths.

Acting Chairman KING. Proceed.

Mr. GOBLE. As of 1938, due to our continual loss of business in this low-grade field, a new field's having come into development in Illinois which was a shallow field, we were very much concerned, because many of our customers told us that they were perfectly willing to take lap-weld pipe, that it was entirely satisfactory for their requirements. In view of our noncompetitive position in lap-weld pipe we were not in a position to participate. Therefore, we were concerned.

We put out the new grade B seamless in exchange for these previous three grades. We established the new grade B with 40,000 pounds minimum yield; put the C up to 55,000 pounds minimum yield; and D up to 80,000 pounds minimum yield, thinking that we had a proper range in low-grade pipes to take care of shallow wells and the highest grade pipes to take care of any deep-well requirements.

This thing went on for a while, and we found that we were not participating in sales of low-grade material because, I believe, after July 1, some time during August—and I believe this has been testified here—twice in August, lap-weld prices were again reduced.

Our customers came to us and told us that we were still not competitive with our grade B material. Now that is the story as I have it in mind at the present time with respect to the price reductions in 1938.

Mr. PORTER. May I restate that just to see if I understand it correctly? As I understand your testimony it is to the effect that at this time in the middle of 1938 and especially at the time of the opening of the Illinois field, a shallow field, the National Tube Co. faced a dilemma, the alternatives being the return to production in lap weld to meet the requirements of customers or the introduction and promotion of a new low-grade seamless to replace lap weld in the needs of those customers. Is that correct?

Mr. GOBLE. Yes, sir.

Mr. Porter. And the second alternative was the one which was chosen. Now there has been testimony, both yesterday and today, to the effect that the introduction of the new grade of seamless grade B by virtue of the fact that it automatically made obsolescent to a degree the old grade C seamless, resulted in pressure upon the price structure of lap-weld oil country products by virtue of the fact that the old-grade seamless was made available to the trade at the same price as the new grade B seamless, which in turn was competitive with lap-weld.

Mr. Goble. Mr. Porter, I don't think you have that picture exactly clear in your mind, if I may clear it up. For a long time our engineering friends among the producers had been devising new calculations and specifications for odd sizes and weights and odd physicals which created a very difficult situation for us in our production. In our equipment we require long runs of specific items to get the lowest costs, and when our customers were ordering special items, it created considerable difficulty in our manufacture and cut down our production and raised our costs, so for a considerable period of time we had been trying to devise, in discussion with our consumers, means of inducing them to specify fewer sizes and weights. Over this period of time the oil companies were very much interested in this program. They themselves felt that possibly if we could eliminate a few of the hundreds of sizes and weights of oil country goods and confine our producing to a lesser number, we could get greater runs and possibly effect savings which might eventually be passed on to the consumer. So, as I recall, for probably a year and a half we had been discussing what we called a simplified list of sizes and weights for oil country goods. We devised this list after the oil industry had been unable to arrange a list to suit itself, because the people in California wanted certain sizes and weights and the people in the Midwest, or what is commonly known as the midcontinent area, wanted something else. We finally took the matter in our own hands and brought out what we called a simplified list, taking total items of our production and selecting therefrom those items which represented a majority percentage of the total.

Acting Chairman King. Then you have the same problem to deal with that the manufacturers of ladies' hats do, they change every day and have various sizes and shapes.

Mr. Goble. That is somewhat analogous.

Acting Chairman King. You had various sizes and shapes as a result of your engineers' efforts, having hundreds and hundreds of different sizes and shapes.

Mr. Goble. Each one seemed to calculate that he required something a little bit special in the way of size or weight or length for his requirements.

Possibly I omitted to say that as of July 1 we had definitely, because of our loss position, decided to abandon lap-weld pipe even though it meant the sacrifice of a considerable investment of the National Tube Co.

Acting Chairman King. July of what year?

Mr. Goble. Nineteen thirty-eight. Now this simplified list, when devised by us from our actual production figures over a period of the previous year or two, was brought out. As I recall there were

12 sizes, or 12 weights and 5 sizes, or 6 sizes—I don't have the list here with me, but a very simplified list of sizes and weights. In this new price program of July 1938 we put the prices of those simplified sizes and weights below the prices of all other items as an inducement to the trade to confine its requirements to those special items.

Mr. PORTER. Let me see if I can make this a little bit clearer, Mr. Goble. Is it fair to say, in view of your last statement, that with the introduction of the grade B seamless the customary preexisting differential in price between lap-weld and the lowest grade seamless was reduced?

Mr. GOBLE. Between lap-weld and the lowest grade seamless? May I get that question clear?

Mr. PORTER. Let me put it this way. Is it true that the differential between the lap-weld price and the price of the new grade B seamless was smaller than the differential between the lap-weld price and the old grade C seamless as that price had been prior to July 1 and the introduction of grade B?

Mr. GOBLE. There are two factors there, Mr. Porter. Do you refer to our old lap-weld price or to a competitive lap-weld price?

Mr. PORTER. Well, both. I would like to have you comment on both.

Mr. GOBLE. Let's have the actual distinction between prices. Possibly that is the best way to answer it. The old grade D seamless was priced at approximately 12½ percent above grade C seamless, which was the lowest grade seamless we sold at that time. Our lap-weld was sold at approximately $7.75 per ton below grade C seamless. Now there were competitive prices. I can't give you any specific figures, but it was our understanding that they were down as much as $6 and $7 below our lap-weld, so that that would have created a spread between the competitive level of prices in some cases as much as $12 or $13 below our old grade C seamless.

Mr. PORTER. Now what was the differential——

Mr. GOBLE (interposing). The differential between the new grades was this.

Mr. PORTER. Just grade B for the moment.

Mr. GOBLE. Grade B was $7.50 below grade C, which would not have been down—which was approximately equal to our level, but not down to the competitive level of prices, that is if I understand the arrangement at the time.

Mr. PORTER. After July 1?

Mr. GOBLE. Yes.

Mr. HENDERSON. You were selling grade B; what was your old posted price?

Mr. GOBLE. For lap-weld, although it did not have the same method of discount, Mr. Henderson, we established it at an approximate. We put it $7.50 exactly below grade C, whereas the old had been established on a little bit different basis and was approximately $7.75.

Mr. PORTER. So that, taking your statement of a moment ago that a total differential of, we will say, $13, existed between the competitive lap-weld price prior to July 1, 1938, and the old grade C——

Mr. GOBLE (interposing). The lowest grade of seamless.

Mr. Porter. Which was the lowest grade of seamless, with the introduction of the new grade B, the differential between the going lap-weld price, assuming no change, and the lowest grade of seamless would be reduced to some six or seven dollars.

Mr. Goble. I would like to point out that there apparently, to our knowledge, was no relationship between certain other published lap-weld prices and our prices of seamless. Therefore, one item might have been very slightly below and another item a substantial amount below, so in using a figure of $5 or $6 or $7, I am using what I assume to be an approximation of the average.

Mr. Porter. Subject to those qualifications you would agree with my statement?

Mr. Goble. Yes, sir.

Mr. Porter. And you would also agree, I take it, that some differential price-wise was necessary for the lap-weld producers in order for them to be able to sell their product in competition with the new low grade of seamless.

Mr. Goble. I don't think I could testify to that, Mr. Porter, because we were too busy running our own business to try to analyze what someone else was doing.

Mr. Porter. In view of the testimony we have had to the effect that generally speaking seamless is a superior product in terms of strength, setting depth, and so on, that would be necessarily the case, I take it.

Mr. Goble. I think if you will analyze the figures and examine the setting depths of our grade B seamless as published by us, and compare it with the published setting depths of certain other lap-weld manufacturers, you will see that they are comparable. We claim of course that seamless is more desirable because it hasn't seams, otherwise we would not have abandoned lap-weld and gone into seamless.

Mr. Porter. Exactly, and as I understand it from the testimony of other witnesses recently, they would agree with you on that.

Mr. Goble. I think I heard that testimony.

Mr. Porter. That is all I was getting at.

Now, Mr. Goble, that brings us up into July of 1938, and from previous testimony we have heard that during that month and also during the month of August 1938 there were reductions in the prices of lap-weld products, the specific cases of such reductions being those instituted by the Wheeling Steel Corporation. In connection with that testimony letters were introduced into the record dated August 12 and 15, 1938, and written by representatives of the South Chester Tube Co., which mentioned your name, and which at one point read as follows: I am quoting now from the record, page 349:

From Mr. Smith—

Parenthetically of the National Supply Company—

we learned that Mr. Goble, Vice-President of the National Tube Company, was hunting Mr. Schaefer—

Parenthetically of the Wheeling Steel Corporation—

to secure an interview and demand that they revise these prices—

That is the lower prices which they had announced early in August. Do you have any recollection of the event which that paragraph describes, Mr. Goble?

Mr. GOBLE. I did not at any time seek to see Mr. Schaefer nor did I see him with respect to this matter at any time.

Mr. PORTER. Have you ever discussed the price list on lap-weld products with Mr. Schaefer or anyone else from the Wheeling Steel Corporation?

Mr. GOBLE. No, sir; I have not.

Mr. PORTER. Now going into September 1938 as you know we have had testimony to the effect that for a period of 4 or 5 days toward the end of the month, perhaps in the last week of September, the National Tube Co. without making any formal announcement in some cases sold its grade B seamless oil country tubular product at prices substantially equal if not exactly equal to the then going prices of lap-weld products of a comparable character. Is that the case, Mr. Goble?

Mr. GOBLE. That is, I believe what you refer to is, the fact that we instructed our district offices that they might accept orders for lap-weld pipe at the going level of prices, on which we would supply, with their consent and knowledge, seamless grade B material.

Mr. PORTER. How long were those instructions in effect?

Mr. GOBLE. I think probably about 6 days.

Mr. PORTER. About 6 days, toward the end of September 1938. Is that correct?

Mr. GOBLE. Yes, sir.

Mr. PORTER. How did you happen to take that action at that time?

Mr. GOBLE. Because after the initiation of this new program of ours of July 1, which had been designed by us to regain for us a market in the shallow-well field which we had lost through what we considered our not being competitive, we decided that something must be done so far as we were concerned, because here was one of the most important developments in the United States at the particular time, the shallow field in Illinois in which we were hardly participating. We felt that it was necessary for us to go and get a reasonable share of that business.

Acting Chairman KING. You mean the shallow field was developed which would furnish a market for steel which you were not then producing.

Mr. GOBLE. Well, we had abandoned lap-weld, Mr. Chairman. The only thing we had to offer to the trade was our grade B seamless. Lap-weld prices had again been lowered and we were still not getting the business.

Mr. HENDERSON. You gave these instructions however, not only, to your dealers in the Illinois district but universally?

Mr. GOBLE. To our district office managers, Mr. Henderson, and they in turn conveyed them to their customers.

Mr. HENDERSON. So your new grade B price was effective to the extent that you could get business in Texas?

Mr. GOBLE. Yes, sir.

Mr. HENDERSON. In the shallow wells there?

Mr. GOBLE. Yes, sir.

Mr. PORTER. As I understand it, Mr. Goble, these instructions were withdrawn after approximately 6 days?

Mr. GOBLE. That is correct; these instructions to the district offices.

Mr. PORTER. Why was that action taken?

Mr. Goble. From the previous testimony here it would indicate that there is a misunderstanding about it, because we at no time, nor have we now, discontinued that practice. We never discontinued it. What we did when we put that into practice was to instruct our district offices that they had permission to accept, without conference with us, orders for lap-weld pipe at the going level of price on which we would supply grade B seamless. Now when those instructions to our district offices were withdrawn, they were withdrawn in this way. Our district offices were told that they henceforth would not have that privilege, that all inquiries from customers for that product must be referred to us in the Pittsburgh central office who would decide whether or not we would carry out that transaction by supplying seamless for old lap-weld orders. The reason we did that was that during those few days we had this in force, that is the authority vested in our district managers, we were constantly in touch with our district managers and our customers and there were some developments which occurred that we had not foreseen. Possibly we should have foreseen them but we hadn't, and the developments were to the effect that customers' engineers were delving seriously into this new program of ours because at that time we were selling our grade B seamless some $12 or $13 below our grade C seamless. The spread was sufficient so that there was considerable activity on the part of our customers and their engineers, in revamping their programs. And it became evident to us that what was going to happen, and what was already happening was that, instead of our recapturing the shallow field market, engineers, had devised a scheme whereby an engineer who had formerly used 22-pound 7-inch grade C material, we will say, for his requirements to a given depth, due to this considerable differential in price, very promptly discovered that what he could do would be to use 24-pound, a slightly heavier wall, and order lap-weld knowing that he would get seamless and that 24-pound grade B would do his job whereas he had formerly used 22-pound grade C and he would have a considerable saving in his purchase. Now when we put this program into effect we had not planned that this was going to change the customers' programs, that they were going to start using heavier weights for deeper wells, thereby taking away the tonnage which we have always looked on as our backbone, that was grade C tonnage. Our grade B tonnage had not been developed from an engineering viewpoint to meet deep well requirements, and it was obvious to us that if we permitted this to be put into effect and started using our grade B where it was never designed to be used, due to the leniency in inspections, leniency in threads, and leniency in physical and chemical analysis, we did not want the grade B to become abused in deeper wells. We recognized that if we permitted it to do that we would be faced sooner or later with an avalanche of claims and for our own protection we saw that we were getting ourselves in very hot water, and we decided that the best thing for us to do was regardless of what we had previously determined, to withdraw from the position so far as our district offices were concerned. What we did do, and what we have continued to do ever since, was to supply grade B material at the lap-weld price, but we oblige our district officers to take the customers' requirements at destination, and submit them to the Pittsburgh office where we know what the customer's requirements are, the

depths to which he proposes to go, and so forth, and we decide whether or not we will accept the order on that basis. We have never discontinued the practice.

Mr. PORTER. Is it your testimony then, that all these things including the analysis of the customer's reaction in terms of the specifications which they designated took place within the period of 6 days?

Mr. GOBLE. They were taking place hourly, Mr. Porter. There was considerable excitement throughout the country from reports of our district managers as to the reaction of our customers.

Acting Chairman KING. You probably made a mistake.

Mr. GOBLE. I am afraid we did, Mr. Chairman.

Mr. Porter, I would like to emphasize the fact that grade B seamless had not been designed and in our opinion, the reasons which I stated, was not suitable for deep well drilling.

Mr. PORTER. Just one other question, Mr. Goble. During the early part of yesterday afternoon's testimony there was introduced into the record a letter written by Mr. Gibson, of the South Chester Tube Co., with respect to an order placed by the Gulf Oil Co. with a number of seamless producers early in 1939. I believe that you were in the room at that time and probably heard that testimony, did you not?

Mr. GOBLE. Yes, sir.

Mr. PORTER. To refresh your recollection I will read the material paragraphs. This is Mr. Gibson's letter:[1]

> The Gulf, as we understand it, have purchased two barges and a small river boat. Weiss—

who was identified yesterday as a purchasing agent of the Gulf Oil Co.—

> offered an order for a barge load of seamless to Jones & Laughlin, the barge to be loaded alongside their loading racks on the Ohio River here, and also a barge order to Spang Chalfant, under the same conditions, the pipe to be billed f. o. b. barge siding, which as you know takes only 2¾ cents per cwt. switching charge in freight.
>
> When the National Tube Company heard of this they just "Raised Cain" and, in some way or other, stopped J. & L. from accepting this order, and likewise Spang Chalfant. The National Tube Company stood hard and fast by their policy, that no pipe would be quoted other than f. o. b. destination, or f. o. b. Houston or Memphis stock.

Do you have any recollection, Mr. Goble, of the events which that letter describes?

Mr. GOBLE. Well, Mr. Porter, you understand I can't testify as to the meaning of that letter, but I will be glad to relate to you the facts as far as the National Tube Co. is concerned.

Mr. PORTER. I would like to have you do that.

Mr. GOBLE. We were offered an order for a barge load of pipe by the Gulf Corporation for delivery f. o. b. our McKeesport mill. We rejected that order because it has always been our practice and the practice of the Steel Corporation subsidiaries to sell merchandise on a delivered basis in general, I believe. That is the practice of the National Tube Co. We were not in a position to discriminate in favor of one customer or one method of transportation. We felt that if we permitted the Gulf Oil Corporation to purchase that barge load

[1] "Exhibit No. 1427," appendix 11005.

of pipe f. o. b. McKeesport we would have no reason to reject similar orders from all other customers by all other means of transportation, recognized means of transportation.

I believe the implication is there that trouble was raised by us with respect to the attitude of Jones & Laughlin. I testify that we had no relationship whatever with Jones & Laughlin or anyone else, except ourselves and customers, with respect to this barge requirement, and I would like also to point out for the benefit of the record, if I may, that the National Tube Co. has not found it necessary in conducting its business to confer with its competitors with respect to its policies, and this was a policy of the National Tube Co.

Mr. PORTER. I would just like to ask you this, to make the matter perfectly clear. Did you at that time know that the Gulf Oil Corporation had made a similar offer to other producers of seamless pipe?

Mr. GOBLE. I had no knowledge of that unless the purchasing agent of the Gulf Oil Corporation might have told our general manager of sales and he might have told me. I have no recollection that he did.

Mr. PORTER. Let me put a brief hypothetical question. Suppose in a situation such as this that it did come to your knowledge that an offer of a sale f. o. b. mill or f. o. b. customer's docks had been made generally to the trade and it came to your knowledge further that one or more of your competitors were giving serious consideration to acceptance of that order, what would be the attitude of your company?

Mr. GOBLE. Mr. Porter, we can do nothing about that. It isn't within our rights to try to deter our competitors from any course that they wish to pursue. All we attempt to do is to run our business according to the instructions given by Governor Miller in the memorandum, which I believe was submitted here the other day, and let other people run theirs.

Mr. PORTER. Would it be fair to infer, however, that the National Tube Co. would regret such action by its competitors?

Mr. GOBLE. We would regret it in this way; we would regret it the same way as we would regret a competitor's going and taking one of our valued customers in business.

Mr. PORTER. Would the National Tube Co. have any feeling as to the establishment by a competitor of a different policy with respect to selling on a delivered-price basis?

Mr. GOBLE. Are you asking me if we would regret that?

Mr. PORTER. Yes.

Mr. GOBLE. Well, as I have stated, we would regret it on the same basis as if a competitor took an order which we were trying to get. We would feel he had taken something from us by underselling us or giving a consideration which it was not our custom or practice to give.

Mr. FELLER. May I ask you this, Mr. Goble: Wouldn't it be something which would affect you somewhat more than the mere loss of a customer? Might it not exercise pressure on the whole price structure and entire policy of the selling?

Mr. GOBLE. Well, I would be concerned in this way. We have a policy which in general is devised by not only our own company officials but by the United States Steel Corporation, and as far as I personally am concerned, when the officials of the United States Steel Corporation decide to make that policy I don't know that it makes much difference to me.

Mr. FELLER. You mean it doesn't make much difference to the National Tube Co.?

Mr. GOBLE. To me as an individual. I shall pursue such course as is laid down with respect to general policy. The practice of selling on a delivered basis is a matter of the general policy of the Steel Corporation and its subsidiaries. As long as that is in effect I shall abide by that, and if it is decided to eliminate that practice, I shall be glad to go along on that basis or any other basis.

Mr. HENDERSON. Do you buy any oil from Gulf?

Mr. GOBLE. Yes, sir.

Mr. HENDERSON. Do you buy it f. o. b.?

Mr. GOBLE. Mr. Henderson, I am sorry I can't tell you. I don't buy it myself.

Mr. HENDERSON. I was wondering why someone didn't ask a question related to some of the testimony in the oil hearings as to what the basis of selling oil companies was.[1]

Let me ask you this. One of the letters introduced yesterday indicated that there was a meeting in the Gulf office, called in Mr. Bothwell's office, and Weiss, of the traffic department of Gulf, McConnor, sales manager of National Tube, and Gulf's legal staff were there. Was that meeting held?

Mr. GOBLE. Yes, sir. My story from Mr. McConnor with respect to that meeting was to the effect that he had been telephoned by Mr. Weiss, who was in the purchasing department of Gulf and upon arriving there they had assembled somewhere, whether it was in Mr. Bothwell's office or elsewhere I don't recall, but they had assembled with Mr. Bothwell and I believe a representative of the traffic department and possibly a legal representative, and the purpose of the meeting, as explained to me by Mr. McConnor, was that the Gulf Corporation was trying to induce Mr. McConnor to accept that order for the barge load, which he had refused to do on that basis.

Mr. HENDERSON. Did Mr. McConnor say also that they threatened to report that action as being in restraint of trade?

Mr. GOBLE. He never reported that portion of it to me, if such a thing was said. I do not recall hearing that before until the testimony was given yesterday.

Mr. HENDERSON. Do you think that would have been a matter of importance?

Mr. GOBLE. I think so. I think if a customer were threatening us with legal action that would be important. Therefore I am inclined to doubt that such a matter was presented in that way.

Mr. HENDERSON. Just in passing, do you mean that it seems when they get into some of these competitive difficulties they do think of some of the laws relating to competition? You remember the other day a memorandum by Mr. Pfeltz raised the question whether one of his sources of supply had not violated the Robinson-Patman Act. You don't think that was a predominant subject in that particular meeting?

Mr. GOBLE. I don't think so, Mr. Henderson, because, knowing the type of men that manage the Gulf Oil Corporation, I can hardly picture their threatening to that extent in order to try to force some-

[1] Hearings on the petroleum industry are included in Hearings, Parts 14, 14-A, 15, 15-A, 16, 17 and 17-A.

body to accept an order on a basis which they thought was desirable for them.

Mr. Henderson. Those things don't take place very often, do they? When a purchasing agent runs up against a situation where he feels there is a restraint of trade he tries to beat it if he can.

Mr. Goble. That is right. But I can't picture the officials of the Gulf Oil Corporation taking that position.

Acting Chairman King. Are you through, Mr. Porter?

Mr. Porter. I have no further questions, Mr. Chairman.

Acting Chairman King. We will adjourn until 2:15.

(Whereupon the committee recessed at 12:30 o'clock until 2:15 p. m. of the same day.)

AFTERNOON SESSION

(The hearing was resumed at 2:20 upon the expiration of the recess, Commissioner Leon Henderson presiding.)

Acting Chairman Henderson. The meeting will be in order. Mr. Goble, I have a few questions to ask you. I am particularly interested in the reference you have made to your position in the industry. I don't know whether you recall, but I asked an official of the Corporation about that before. Would you mind saying what you mean when you speak of your position in the industry?

Mr. Goble. What I meant by that, Mr. Henderson, was the business which we were getting compared with what we approximated the total national tonnage to be, as compared with the relationship between our capacity to produce and the total national capacity.

Acting Chairman Henderson. And you have the feeling that over a period of time you ought to get something around that percentage of business?

Mr. Goble. Somewhere near that percentage; yes, sir.

Acting Chairman Henderson. And if you don't there is something wrong with your marketing policies or your sales——

Mr. Goble. (interposing). Or our product.

Acting Chairman Henderson. Or your what?

Mr. Goble. Or our product.

Acting Chairman Henderson. And in this case I assume that you had in mind it was your price.

Mr. Goble. Yes, we were unwilling to meet the competition in a particular field. We thought it was unwise from the profit viewpoint for us to do so, because of the small volume of business which we were getting.

Acting Chairman Henderson. You weren't willing, in other words, to go out in lap-weld at a lower price?

Mr. Goble. Yes, sir.

Acting Chairman Henderson. And you preferred to meet it with something of a higher grade at about that price?

Mr. Goble. We preferred over a period, as I stated, of several years to try to effect through technological development another product by which we could redeem that market.

Acting Chairman Henderson. Rather than try to get that market through price competition?

Mr. Goble. Yes, sir.

Acting Chairman HENDERSON. There wasn't any doubt in your mind that the level at which you were offering lap-weld, as differentiated from your competitors, did have something to do with your losing ground?

Mr. GOBLE. Unquestionably that is true.

Acting Chairman HENDERSON. That is, lap-weld was being sold and you people were holding it at your posted price and the rest of the industry was selling either below your official price or using a different and lower posted price.

Mr. GOBLE. I wouldn't assume, Mr. Henderson, that all of the rest of the industry was doing that. I would assume that a majority of that tonnage was selling below our posted price.

Acting Chairman HENDERSON. What do you have in mind as the percentage which you ought to get of the going business? Thirty-five percent?

Mr. GOBLE. Well, we haven't aspired to that much, Mr. Henderson, in a number of years. Of course we would like to.

Acting Chairman HENDERSON. Well?

Mr. GOBLE. We haven't been able to.

Acting Chairman HENDERSON. What is the ratio of your capacity to the total in the industry?

Mr. GOBLE. I would say approximately 35 percent.

Acting Chairman HENDERSON. For lap-weld and electric?

Mr. GOBLE. I am speaking of the total tubular goods and tonnage.

Acting Chairman HENDERSON. Of all kinds?

Mr. GOBLE. Yes, sir.

Acting Chairman HENDERSON. Then was this move of yours—when you substituted the low-grade B seamless—a matter within the determination of National Tube, or was it something that had to be referred to the parent corporation?

Mr. GOBLE. That would normally be referred to the parent corporation so far as policy was concerned, and I assume that it was done in that case. I have no contact, personally, myself, with the Corporation. Those contacts are handled, I believe, by our President.

Acting Chairman HENDERSON. So you don't know whether that was——

Mr. GOBLE (interposing). I don't know, except I understand from our President that he did.

Acting Chairman HENDERSON. Did you know at the time what a move like this was likely to do to South Chester Tube and Wheeling?

Mr. GOBLE. Well, I just don't know the import, if you don't mind.

Acting Chairman HENDERSON. I mean, did you know that it was likely to be very upsetting to them on account of this formerly maintained differential?

Mr. GOBLE. Yes; we assumed that it would probably be disturbing because it was a distinct and new departure from past practices; it was a new product and probably came somewhat as a shock to them. Our developments possibly were not know theretofore to anyone else except ourselves, although undoubtedly some of our customers must have given an inkling here and there about what we proposed to do because from time to time we would, in a confidential way, discuss it.

Acting Chairman HENDERSON. You mean with your customers?

Mr. GOBLE. Yes, sir.

Acting Chairman HENDERSON. Had you ever discussed it at all with the other members of the industry making tubing?

Mr. GOBLE. No, sir.

Acting Chairman HENDERSON. Did you have any discussions among yourselves as to the exact place it would be necessary to put the price in order to get a fair share of the market?

Mr. GOBLE. Well, as of July 1, at that time we thought that the proper level would be at our published lap-weld price, or an approximation of that price. I explained this morning the bases of calculations were slightly different, but the result was meant to be the same. In other words, we felt that if we could put grade B seamless on our lap-weld basis, that would make it possible for us to participate in this low-grade tonnage.

Acting Chairman HENDERSON. And that would mean that somebody else would lose some share they had been gathering in during the period your prices were too high for the general level of the industry?

Mr. GOBLE. Yes, Mr. Henderson, we were under the impression at that time, and I suppose that can be confirmed from records, that other manufacturers were operating at a greater rate in comparison with their rated capacity than we were.

Acting Chairman HENDERSON. And if you had recovered a reasonable amount of lost tonnage by virtue of the July 1 changes, you wouldn't have been confronted with the additional situation you had for those 6 days in September?

Mr. GOBLE. That is correct.

Acting Chairman HENDERSON. Did you discuss, during the considerations that led you to set those lap-weld prices, going below the published prices that formerly obtained for lap weld?

Mr. GOBLE. Did we discuss putting our grade B below?

Acting Chairman HENDERSON. Yes.

Mr. GOBLE. No, sir; it is not my belief that we ever put grade B seamless below lap-weld prices.

Acting Chairman HENDERSON. I asked you whether you considered what the effect of that would be.

Mr. GOBLE. Well, no; because we had no thought of ever doing that. We didn't think it was necessary.

Acting Chairman HENDERSON. You thought you would get a reasonable amount of tonnage by offering this admittedly better-grade product at the same price?

Mr. GOBLE. Yes, sir.

(Representative Williams assumed the Chair.)

Mr. HENDERSON. But you did know that it was likely to divert business from some of the others. Did you know how much excitement it actually caused in the trade when you made this announcement, particularly of the September reduction?

Mr. GOBLE. No; except the reverberations, if I may call them that, which we received through our district offices, and from the customers whom we contacted. That was the only information which we received.

Mr. HENDERSON. Did you yourself run into any of your competitors during this period?

Mr. GOBLE. I do not think, and I am quite sure of this, Mr. Henderson, during that particular period I didn't see or talk in any manner to any competitor.

Mr. HENDERSON. But you do talk with your competitors once in a while at trade meetings?

Mr. GOBLE. During my tenure with the company there have been only two or three times when I ever discussed any matter with my competitors.

Mr. HENDERSON. In this you are a little different from the other branches of the industry.

Mr. GOBLE. This was a case where we had gone out on our own and we had nothing to discuss. We had abandoned lap-weld pipe.

Mr. HENDERSON. Did you get back, by your September move, a reasonable amount of tonnage?

Mr. GOBLE. Well, now, you mean during this period of 5 or 6 days?

Mr. HENDERSON. Yes.

Mr. GOBLE. No, sir; the tonnage actually placed on our books was not very important. It was the developments that were taking place that frightened us, developments as to the trend, the direction in which this was traveling, which we had not anticipated. There was a relatively small amount of tonnage put on our books during that period.

Mr. O'CONNELL. What about the period between July 1 and that 6-day period?

Mr. GOBLE. That had been disappointing, very disappointing.

Mr. O'CONNELL. Specifically, what effect had it, do you know?

Mr. GOBLE. It had undoubtedly increased our participation slightly, but our customers still said, continued to say, that—

for our particular purpose on this particular project, lapweld is good enough, and we still can't pay you a differential to get seamless.

Mr. O'CONNELL. What about your participation at the present time? Is it better?

Mr. GOBLE. I think we have regained it to some degree. We won't know that until we finally get the statistics of the iron and steel industry because we can only assume these things. They are the result of our best judgment until we finally get statistical data.

Mr. HENDERSON. But you think you have gained back some?

Mr. GOBLE. I think we have gained back some portion of it.

Mr. HENDERSON. What do you think would have happened if you had kept in effect that policy of letting the manager take over the lap-weld at that price with the idea of substituting seamless?

Mr. GOBLE. What undoubtedly would have happened was that the use of our grade B would have expanded into fields which we did not wish it to serve. We would have been faced with trouble.

Mr. HENDERSON. It would have reached up to grade C but it certainly would have done something to the lap-weld being produced by other producers, would it not?

Mr. GOBLE. It possibly would have taken considerably more of their business.

Mr. HENDERSON. So really you were sitting in the driver's seat, to use a common expression, so far as price-making goes.

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Mr. Goble. I would say that we were sitting in a very dangerous position in respect to our own business.

Mr. Henderson. Well, as the testimony shows in the last 2 days, South Chester Tube and the rest of them thought you were sitting in a dangerous place so far as they were concerned. You were sitting in the driver's seat. That is what you had intended to do, wasn't it?

Mr. Goble. We intended to regain a portion of our business, our position.

Mr. Henderson. And as your testimony shows, you took one action, which wasn't enough and you took another action. Then I suppose you could have decided to take a third action. You were out to get that market back at that particular time.

Mr. Goble. I can't say that we were ever prepared to go any further than that, because that was a very drastic action within itself. I think, Mr. Henderson, that you might consider this particular angle. If we sold seamless grade "B" casing at a lapweld price, we would never get all of the lapweld business. I have many customers, there are hundreds of people throughout these United States, that state:

> So far as we are concerned for our particular purpose, we don't care whether you ship lapweld or seamless.

Mr. Henderson. On account of the prices.

Mr. Goble. Yes, sir.

Mr. Henderson. The 30,000 of lap-weld will take care of it pretty adequately.

Mr. Goble. And that is a substantial market.

Mr. Henderson. But if you sold it at a price lower than lap-weld you would get the lap-weld business, would you not?

Mr. Goble. Yes, sir; because then they would buy the cheapest material.

Mr. Henderson. Would you be likely to increase the uses for which this particular type of goods is used? Would it displace the use of any other materials or would it just, in your opinion, get a bigger percentage of the oil country business?

Mr. Goble. Unquestionably our bringing out of grade B has, to some degree, taken the place of or detracted from our sales of grade C.

Mr. Henderson. But it didn't reduce the volume of seamless sold?

Mr. Goble. No, sir.

Mr. Henderson. It increased the amount of seamless you were selling?

Mr. Goble. I think that is true.

Mr. Henderson. Somewhere along the line there you were trying to find the proper price for that quality which would move some tonnage.

Mr. Goble. That is true.

Mr. Henderson. And having 35 percent of the capacity in the industry was a tremendous factor, wasn't it?

Mr. Goble. It was very important that we maintain our position and try to keep our mills operating at a level comparable with other mills.

Mr. Henderson. You were here yesterday, I guess, and read the testimony and heard this morning's testimony.

Mr. Goble. I heard the testimony. I don't think I have read it.

Mr. Henderson. Have you any explanation as to how the writers of these memos and letters got what you consider misapprehensions about your place and the position you were taking?

Mr. Goble. I haven't the slightest information, Mr. Henderson, and could only assume, and it would be an assumption, that it was gossip.

Mr. Henderson. That it was gossip passing in the trade?

Mr. Goble. Yes, sir.

Mr. Henderson. Did you know whether Youngstown, Spang, J. & L., were going to discontinue lap-weld?

Mr. Goble. I had no information. I don't think they ever did. To my knowledge they never have.

Mr. Henderson. That is all the questions I have.

Mr. O'Connell. I would like to ask a question. Do you happen to know how much of an investment would be required to set up a unit which would make seamless pipe? I was thinking of a concern which is now engaged solely in the production of the lap-weld, which there has been some evidence is in the process of becoming obsolete. I was curious to know. You people discontinued making the lap-weld, and went into the business of making seamless. Is there a very substantial investment that is required to make that change?

Mr. Goble. Mr. O'Connell, you see I am in charge of sales——

Mr. O'Connell (interposing). I realize that, and thought you might have some general information.

Mr. Goble. I could only get that from my auditor. It would be purely conjecture, and might be 50 percent wrong. I don't know the value of those investments, except in a general way.

Mr. Henderson. Are they covered by patents?

Mr. Goble. No, sir; there may possibly be some few little gadget patents, but to my knowledge I don't know of those.

Mr. Henderson. How about electric welding?

Mr. Goble. Yes; there are some patents on electric weld, I understand.

(The witness, Mr. Goble, was excused.)

Mr. Feller. I should like to call Mr. T. A. L. Loretz.

Acting Chairman Williams. Do you solemnly swear the evidence you are about to give in the matter now pending shall be the truth, the whole truth, and nothing but the truth, so help you God?

TESTIMONY OF T. A. L. LORETZ, GENERAL MANAGER, PACIFIC COAST STEEL FABRICATORS' ASSOCIATION, LOS ANGELES, CALIF.

Mr. Loretz. I do.

Mr. Feller. Mr. Loretz, will you state your name for the reporter?

Mr. Loretz. My name is T. A. L. Loretz.

Mr. Feller. And the organization with which you are connected?

Mr. Loretz. I am the general manager of the Pacific Coast Steel Fabricators' Association, with headquarters in Los Angeles, Calif.

Mr. Feller. The Pacific Coast Steel Fabricators' Association is an association of various fabricators of steel located in the three Western States on the Pacific coast, the far Western States?

Mr. LORETZ. That is correct. Its membership includes the 25 or 26 of the principal structural- and plate-steel fabricators in California, Oregon, and Washington.

Mr. FELLER. Are any of your members connected or affiliated with any company manufacturing steel?

Mr. LORETZ. Not to my knowledge, Mr. Feller. The membership as far as I know, consists entirely of the so-called independent fabricators, that is, fabricators having no known connection with any rolling-mill or steel producer.

Mr. FELLER. What products are fabricated by members of your association?

Mr. LORETZ. Structural-steel buildings, bridges, and all products fabricated from structural-steel sheets, plates, and bars, the plate fabricators manufacture steel tanks, silos, pen stock, welded-steel pipe and other plate products.

(Senator King assumed the Chair.)

Mr. FELLER. And some of the members of your association also construct vessels, do they not, ships?

Mr. LORETZ. That is correct, three of the companies are shipbuilders as well as being engaged in the general fabrication of steel.

Mr. FELLER. Is it correct to say that generally speaking your members can be classified into two groups, those concerns engaged principally in the fabricating of structural steels and those engaged principally in the fabricating of plates?

Mr. LORETZ. That is correct except that some of the larger ones are engaged in both types of operation and of course those two operations overlap to some extent.

Mr. FELLER. In what cities are the plants of your principal members located?

Mr. LORETZ. In the southern section of California, in Los Angeles and Vernon and Alhambra, which are cities adjacent to Los Angeles; in the San Francisco Bay area, in San Francisco, South San Francisco, Oakland, Alameda, and Berkeley; in Oregon in the Portland area, and in Washington, in Seattle and Renton, Wash.

Mr. FELLER. Sometime ago you testified before the United States Maritime Commission, and you stated at that time, as I recall, the purposes for which the Pacific Coast Steel Fabricators' Association had been established. I wonder if for the benefit of this committee you can repeat what you said on that occasion as to the purposes of the establishment of your association.

PACIFIC COAST STEEL FABRICATORS' PROBLEMS

Mr. LORETZ. With the permission of the chairman I will read from the record of that proceeding in order to save time. Quoting from United States Maritime Docket, No. 514, page 579, of the reporter's transcript:

> The Pacific Coast Steel Fabricators' Association was organized in 1935, during NRA code days, and its purposes were to bring about a greater measure of cooperation among members of the industry located in the three far western states, to foster the development of the independent steel fabricating industry in these states by all legitimate means, and so forth.
>
> Among other things which the Association has been called upon to do, one of the most important has been an effort to resist the dumping of fabricated iron and steel products in this territory; by dumping I refer to the practice of fabrica-

tors outside this territory shipping tonnage in here at prices lower than their normal cost of production plus transportation, on the theory of bolstering up total volume without any attempt to add normal overhead or any profit at all on such business outside their own normal sphere of operation.

Steel fabricators on the West Coast operate under the extreme disadvantage of being at the end of the line, in so far as this business of shipping into other fabricators' territories is concerned. Fabricators located in the interior industrial sections of the United Srates, namely, Chicago, Minneapolis, Kansas City, Des Moines, and so forth, utilize the all-rail routes to fabrication in transit to advantage in shipping into this territory. Fabricators located at or adjacent to the Atlantic or Gulf Seaboards are located near the mill source of supply of most of the raw materials, namely, unfabricated structural shapes and plates, and pay little or no differential, by that I mean freight differential, on their fabricated products over the plain unfabricated material rates borne by West Coast fabricators on the same raw materials obtained from the same eastern or southern mill sources of supply.

Mr. FELLER. Do you have something further?

Mr. LORETZ. There is one further section that might be interesting to the committee, Mr. Feller. I will try to stay out of the portion of the testimony that related entirely to transportation. Quoting again:

The West Coast fabricators ask no favors or advantages from the coastal steamship operators nor from any other transportation agency. There has, however, got to be a stop somewhere in the continued cutting of rates into this territory as it affects the iron and steel interests or the plant investment of upwards of twenty-one million dollars of fabricators represented in this Association will be confiscated. The Pacific Coast fabricators can only ask and do only ask that the ocean freight rates of their competitors having numerous other natural advantages, be treated with exactly the same yardstick as the Pacific Coast fabricators. Every steel mill and every steel fabricator has its natural marketing area which presumably it was created to serve. Seldom, however, does any steel mill or steel fabricator confine its sales activities to this natural marketing area. Either because of, (1) limited available tonnage within its natural area, or (2), a policy of taking business outside of that area at less than normal returns to build up volume, and, (3) finally because its competitors have retaliated and come into its territory, a complicated system of cross-shipping and backhauling of steel and steel products has developed throughout the United States. The Federal Trade Commission, as a matter of fact in its report of May 7, 1939, entitled "Monopoly and Competition in Steel," took cognizance of this situation and condemned it as economically wasteful. The Pacific Coast and its back country have been a relatively good field on construction, reclamation and building projects and oil-field development in recent years, consequently it has been the natural target for outside competitors of practically all sections of the country. Unfortunately, the Pacific Coast Iron and Steel Fabricating interests have no beyond or outside territory in which they can indulge in any retaliatory tactics. They are, as mentioned before, at the end of the line. They are located farthest in terms of distance and transportation rates from their main sources of supply.

Mr. FELLER. Mr. Loretz, I think perhaps we could develop, step by step, some of the matters you have touched on here. First I should like to ask if you can explain the position of what you have called the independent Pacific coast fabricators with respect to other fabricators, and particularly as reflected in the amount of business that these various types of fabricators have done in the Pacific Coast States.

Mr. LORETZ. In order to develop that picture factually for our own information and to place it in the proper factual form before the committee, I have prepared two exhibits which I believe have been distributed and which are identified as exhibit 1 and exhibit 2, each a mimeographed exhibit consisting of two pages. Commenting briefly——

Mr. FELLER (interposing). May I offer this for the record?

(The exhibit referred to was marked "Exhibit No. 1439" and is included in the appendix on p. 11010.)

Mr. LORETZ. Exhibit No. 1, as its title shows, is a statement showing fabricated structural steel awards on jobs of 100 tons or more covering fabricated structural tonnage placed for delivery at points in the three Pacific Coast States (California, Oregon, and Washington). The 18-month period of January 1, 1938, to June 30, 1939, was used, that being the most complete representative period that figures were available for at the time these exhibits were compiled.

May I state for the record at this time that these exhibits were prepared in August and September pursuant to a request from Mr. Feller and a subpoena duces tecum issued by the committee.

Page one of exhibit number one will show that for these three Pacific Coast States, during the period analyzed, Pacific coast fabricators were awarded a total of 41,597 tons of structural steel, which represented 27 percent of the total tonnage of that class let for delivery or erection in the three Pacific Coast States. Five percent, or 7,685 tons, went to Midwest and Southern States independent fabricators; 2.4 percent, or 3,688 tons, went to so-called Atlantic States independent fabricators; while 101,277 tons, or 65.6 percent of the total tonnage in the territory went to so-called mill affiliate fabricators.

Mr. FELLER. Who are the mill affiliate fabricators?

Mr. LORETZ. The mill affiliate fabricators are the fabricators known to be affiliated with the United States Steel Corporation and the Bethlehem Steel Co., namely, the American Bridge Co., in the case of the Steel Corporation, and there were some awards that were made to the Columbia Steel Co., which is the Pacific coast sales subsidiary of United States Steel, which were included in that tonnage. As I recall it, all of the awards to Bethlehem were under the name of Bethlehem.

Acting Chairman KING. May I ask a question for my own information so I may have a proper approach to the question involved?

It is a fact, is it not, Mr. Loretz, that for a good many years complaints have been made by people on the western coast and back into the Rocky Mountain section, as well as some interior points, that rail freight rates were very high. In many instances these were almost prohibitive. For that reason demands were made for the building up of a coastwise trade as a result of which, and in order to meet such demands, ships were constructed, sailing from the Atlantic ports through the Canal, California, the Pacific Coast, back to the Atlantic coast. By reason of the construction of these water means of transportation the rates for transporting commodities to the Pacific coast were reduced, which was the desire. They were reduced to such a degree that demands were made by interior points that the ocean traffic, coastwise trade, be put under the control of the Interstate Commerce Commission, and responding to the petitions which I received, and there were many of them, 8 or 9 years ago, I offered another plan which, with some modifications, was adopted, under the terms of which the coastwise trade was brought under the control of the Interstate Commerce Commission and that Commission fixed its rates.

Now are you complaining because rates were cheapened so that fabricated steel can be shipped from the East and compete in price

with that fabricated on the west coast? Are you complaining about that?

Mr. LORETZ. I can't make the unqualified answer, Mr. Senator, that we are complaining of that. The development of the intercoastal Atlantic-Pacific trade has occurred just about as I have outlined. These intercoastal steamship lines have a heavy east-bound lumber haul. In fact, I would say over 50 percent of the lines are direct affiliates of lumber companies, with the result that they are out after west-bound freight and the tendency is to cut the west-bound rates from the Atlantic ports to the Pacific ports down pretty low, except in peak times when ships generally have quite a lot of emphasis going on west-bound. Well, that is not true, generally speaking, east-bound. The complaint that I would have with respect to the intercoastal steamship rate structure is that the rates are not properly constructed in that they don't recognize the main thing that steamship lines have to sell; namely, space.

You take a steel plate, for example, and make a base rate on that. Then they take that and roll that and make a tank out of it, increase its bulk, its cubic by several thousand percent, literally, and charge very little, if any, differential in the rate. As a matter of fact, my testimony in the Maritime Commission docket No. 514 was directed to that very thing.

Acting Chairman KING. Isn't your complaint rather that the Interstate Commission has failed to charge sufficient rates as would be fair and just to activities upon the Pacific coast, that it hasn't approached the subject of measuring the space upon the ships, and so on, as to do justice to the Pacific coast shippers?

May I add further, are you asking that Congress shall legislate and fix rates? We did not do it with respect to interstate commerce rail rates. It seems to me, then, that Congress would be entering upon a very broad field which would have no beginning and no end if it attempted to fix rail rates or ocean freight rates, and that is the reason we set up the Interstate Commerce Commission. They have authority to investigate to determine that justice has been done, to fix rates that would be fair and just, and that is all you people on the Pacific coast should be interested in.

May I say I am interested in those rates because Utah furnishes some of the steel that you fabricate. We have a mill there at Provo and we are interested, of course, in the development of the steel business on the Pacific coast—the fabricating business—because we ship ingots and some finished products from Utah. It seems we are going too far afield if we expect this committee or Congress to enact legislation or recommend legislation fixing rates.

Mr. LORETZ. That is not being advocated by our association at all, Mr. Senator. My comments on freight rates were merely to answer your questions.

Mr. FELLER. May I point out that the reference to ocean transportation was merely as an explanation of one of the purposes for the creation of this association as I understand it, and Mr. Loretz' purpose here is to discuss other problems which the members of his association face in the steel industry, as such.

Mr. REYNDERS. May I ask a question? Would you say the date of completion of the Golden Gate Bridge, if you remember it?

Mr. Loretz. 1937, as I remember it.

Mr. Reynders. And the Oakland Bay Bridge?

Mr. Loretz. I believe that was also in 1937. I haven't those exact dates.

Mr. Reynders. Would any of those tonnages in Division 4 relate to structures of that character in which the weight of individual members is an important factor?

Mr. Loretz. No. You will notice the period covered here is January 1, 1938, to June 30, 1939, so I am sure none of those two major bridge jobs were included in that.

Mr. Reynders. Were there any other structures of large dimensions that came in at this period?

Mr. Loretz. Nothing by any means as large as that. There may have been some rather heavy jobs of three or four thousand tons included in there. I have my work sheets on that here and I could check that, though I am quite sure there were no——

Mr. Reynders (interposing). It might be interesting to see some of those figures, because some of this tonnage must be constructed in shops of special facilities to handle heavy individual parts, which perhaps the smaller companies could not very well handle.

Mr. Loretz. I would say with respect to all, or practically all of this tonnage, the larger shops on the Pacific coast are equipped to fabricate it.

Mr. Feller. Just to clarify the matter a bit further, you referred here to mill affiliate fabricators.

Would you say it included the United States Steel Corporation subsidiaries and also the fabricating division of Bethlehem Steel? Do you happen to know whether the United States Steel Corporation subsidiaries have fabricating shops in these three far Western States?

Mr. Loretz. The United States Steel Corporation, to the best of my knowledge, does not have any fabrication facilities of its own in the three Western States. The tonnage taken by the United States Steel Corporation and its subsidiaries included in here was undoubtedly fabricated at eastern or middle western shops and transported in fabricated form to the Pacific coast. And further, with reference to that, the Bethlehem Steel Co. has acquired and does maintain fabricating shops in all three Western States.

Acting Chairman King. Where does it get the raw material from, the ingots or unfinished steel?

Mr. Loretz. It gets its steel from its own mills located in Los Angeles, San Francisco, and Seattle, and from eastern mills at Bethlehem, Pottsville, and Sparrows Point in the East.

Mr. Feller. You don't know how much of the tonnage which was awarded to Bethlehem was fabricated in the west-coast shop?

Mr. Loretz. That information would not be available to me; no. Shall I proceed with the explanation of exhibit No. 2, Mr. Feller?

Mr. Feller. I would like to submit it.

Acting Chairman King. It will be received.

(The exhibit referred to was marked "Exhibit No. 1440," and is included in the appendix on p. 11011.)

Mr. Loretz. In the case of both exhibit 1 and exhibit 2, I have defined the terms used on the first page of the exhibit. It is shown precisely what is meant by the term "Midwest States and Southern States independent fabricators," and so on.

The only further comment on exhibit No. 1 [1] is to show that only 2.4 percent of the tonnage during that period in those three Western States was taken by independent Atlantic States fabricators. I make that comment because of Senator King's inquiry with respect to freight rates intercoastal. Exhibit No. 2 [2] is made up in the same form and shows fabricated structural steel awards, the same class and for the same period for delivery or erection at points in what may be termed the Intermountain or States adjacent to the Pacific coast, territory which might normally be considered to be a national marketing territory of Pacific-coast fabricators, namely, the States of Arizona, New Mexico, Nevada, Utah, Idaho, and Montana.

This exhibit will show that during that period the Pacific-coast fabricators in the three far Western States were able to secure only 2.4 percent of available structural tonnage in these Intermountain States; local fabricators, that is, shops located in those several States, took 3.7 percent of the tonnage, or a total between them of only 6.1 percent. The Atlantic States fabricators took but a fraction, 0.8 percent, whereas the balance, 93.1 percent of the structural tonnage available in those States, went to Middle Western and Southern States, so-called independent fabricators and the mill-affiliated fabricators. In the case, of course, of mill-affiliated fabricators, I have no information as to where the fabrication work was done, or from what point shipment was made.

Acting Chairman King. How do you account for the very small awards to the Atlantic States independent fabricators, namely, eight-tenths of 1 percent?

Mr. Loretz. Well, they would have to fabricate at their eastern shops and either ship around via the Atlantic seaboard and through the Panama Canal and bear the transportation cost from a Pacific port back into Arizona or Utah as the case might be or they would have to ship transcontinentally by rail and pay a substantially higher freight rate than the middle-western fabricator would pay.

Acting Chairman King. How was that 42 percent shipped; by rail or water?

Mr. Loretz. Of course I haven't exact knowledge there, but I would say——

Acting Chairman King (interposing). Midwest States and Southern States independent fabricating.

Mr. Loretz. I would say that was undoubtedly shipped 100 percent or close to 100 percent by rail; all rail.

Acting Chairman King. Would no part of that come from the steel industry in Alabama?

Mr. Loretz. Yes, some undoubtedly did originate in Alabama. Alabama, Illinois, Indiana, Kansas are the principal fabrication points in the Middle West. I have included the Southern States with the Middle Western States in these tabulations.

Acting Chairman King. Are you complaining about the prices at which they disposed of their products on the Pacific coast, shipping them as they did, by water or by rail or both?

Mr. Loretz. We are not complaining before this committee, Mr. Senator, as to transportation rates. We realize that this committee

[1] "Exhibit No. 1439, appendix, p. 11010."
[2] "Exhibit No. 1440, appendix, p. 11011."

is not delving into transportation rates. This is merely a result of a factual study to show where the tonnage, where the structural tonnage, in the Western States went. As will be shown later on it is by a combination of factors, one of which is transportation.

Mr. Reynders. Could I ask you, is the transportation item, item 4, the same as on item 2?

Mr. Loretz. You are referring to orders shipped by so-called mill-affiliate fabricators? As I said, we have no information as to where that business may have been fabricated. It might have been fabricated in the Pacific-coast shops, in the case of the Bethlehem Steel Co., or it might have been fabricated in the Middle West or farther eastern fabrication points.

Mr. Reynders. To the extent it was manufactured in the East or Middle West, the transportation would no doubt be by rail also?

Mr. Loretz. I would say it would no doubt be by rail. It isn't in the cards to have an inland rail haul at the eastern end and a further rail haul at the western end.

Dr. Lubin. Does the Columbia Co. do any fabricating, or are they just a sales organization?

Mr. Loretz. I don't understand that the Columbia Steel Co. does any fabrication work. I believe it takes orders for fabricated steel under that name which are probably assigned, then, to the fabricating unit of the Steel Corporation.

Dr. Lubin. So other than these independents who are members of your organization, Bethlehem is the only large organization on the coast that actually fabricates steel products?

Mr. Loretz. That is correct.

Dr. Lubin. Would their capacity be sufficiently large to cover this 101,000 tons that you have in that 18-month period, or would it necessarily follow they would have to bring some in, assuming they did it all, which of course they didn't?

Mr. Loretz. They have about four, either four or five shops on the west coast, and I haven't information as to what their capacity might be.

Dr. Lubin. In other words, these figures do not necessarily prove that these materials that are put out, sold by the mill affiliate fabricators, necessarily have been brought in from outside of the Pacific coast. It is theoretically possible that they might have been manufactured on the coast itself.

Mr. Loretz. In the case of the Bethlehem Steel Co. I would say that is so.

Dr. Lubin. So that the freight question wouldn't come into the picture so far as they are concerned. They would be in the same situation you are in?

Mr. Loretz. That is correct.

Acting Chairman King. Would that entire 51 percent plus come in the category just referred to, that is, produced upon the Pacific coast?

Mr. Loretz. Theoretically, yes. Actually I doubt if, because of the transportation and other disadvantages, such of that tonnage as the Bethlehem Steel Co. might have secured would have been shipped from their Pacific coast plants.

Mr. Henderson. In making up item No. 4, there were other companies which had awards besides Bethlehem, were there not?

Mr. Loretz. Yes. No. 4 includes Bethlehem and the United States Steel and its affiliates.

Acting Chairman King. Do you know what percentage of that 51 percent consisted of steel fabricated on the Pacific coast?

Mr. Loretz. No, as I stated, I wouldn't have any information as to where those companies chose to do their fabricating.

Acting Chairman King. Is it your view that substantially all of that 51 percent was fabricated on the Pacific coast because of freight rates which would preclude them from perhaps shipping from the interior part of the United States, or in fact from the Atlantic seaboard?

Mr. Loretz. Quite to the contrary, Mr. Senator. I would venture the opinion that most of the 51.1 percent was shipped from middle western points of origin.

Acting Chairman King. What territory would you call Middle West?

Mr. Loretz. From Illinois, Indiana, Minnesota, Kansas, Alabama.

Acting Chairman King. And if it were shipped from that territory, would it be by rail?

Mr. Loretz. It would be by rail.

Acting Chairman King. And the rate would be very much higher, then, than water rates, and the Pacific coast fabricators would have the advantage of the short haul?

Mr. Loretz. This 51 percent, you notice, appears on exhibit No. 2, which is material destined to the interior Western States, Arizona, New Mexico, Nevada, Utah, Idaho, and Montana, so that under the present price and transportation set-up, the logical shipping points for material destined to that territory would be points in the Middle Western States.

Acting Chairman King. I suppose the Federal Government would use some of this steel that is comprised in these shipments?

Mr. Loretz. That includes Government projects; yes.

Acting Chairman King. Would any considerable part of the entire amount be Government purchase?

Mr. Loretz. A substantial amount would. I didn't make any check to determine just how much.

Acting Chairman King. And the awards which were made were competitive in character? The Government didn't buy except under competitive procedure?

Mr. Loretz. That is correct.

Acting Chairman King. So that whoever got the award got it by reason of lower prices, presumably?

Mr. Loretz. That is correct; and one factor in that would be the matter of land grant freight rates, which I had planned to touch upon briefly later in my testimony.

Acting Chairman King. All right.

Mr. Feller. One of the factors that, I take it, comes into this question is the matter of the steel price structure itself, the price on steel, and perhaps you can tell us about the attitude of the independent Pacific coast fabricators with respect to that steel price structure.

Mr. Loretz. Along that line, Mr. Feller, I have prepared an exhibit identified as my exhibit No. 3 consisting of two pages. That was prepared around the 1st of September. The source for the prices was the Iron Age of August 24, 1939, so it will be necessary, in offering

this exhibit, to make some corrections in it. With your permission, I will read those.

Mr. FELLER. I offer this.

Acting Chairman KING. It may be received.

(This exhibit referred to was marked with "Exhibit No. 1441," and is included in the appendix on p. 11012.)

Mr. LORETZ. To bring exhibit 3 up to date, it should be shown in the title that the source is the Iron Age of November 9, 1939, instead of—I am referring now to the third line of the title—August 24, 1939, and these corrections should be noted in connection with the column headed "Plates," the next to the righthand column.

Down under "Philadelphia delivered" the 2.05 should be crossed out, in other words that should read 2.15 and in connection with the 2.15 there should appear an asterisk. In the case of "New York delivered" the reference to $2.19 should be eliminated and in connection with $2.29 an asterisk should be shown. There should also be an asterisk in connection with the two last items, $2.45 for Gulf ports and $2.60 for Pacific ports, and the explanation of that asterisk should be changed as follows: The words "Subject to concessions particularly in the East of $2 per ton, 10 cents per pound," should be crossed out and this explanation should be shown instead: "Twenty-five cents premium by certain independent plate mills for early deliveries." In other words the current Iron Age in the case of Pittsburgh, Pa., for example, will show $2.10 to $2.35. It is my understanding that the $2.35 represents a 25 cent premium or extra which certain mills are charging for early deliveries.

Mr. REYNDERS. Doesn't that really apply to the local steel company?

Mr. LORETZ. You possibly have better information than I have. I understood it applied to Lukens and to one or two other companies

Mr. REYNDERS. They raised their price $5 a ton and the scrap prices went up $6 to $7. I don't know of any other mill charging that and guaranteeing prompt deliveries.

Mr. LORETZ. None of them were guaranteeing prompt deliveries. That will also change on page 2 of the same exhibit, on No. 3, after "Plates f. o. b. Sparrows Point, Md.," the parenthetical notation, 2.10 less .10 should be crossed out and in place of the $2, $2.10 should be shown. That will change the total of price plus transportation to $2.59 instead of $2.49. With those exceptions the exhibit is correct, there having been no other changes in published prices or any changes in transportation rates.

Explaining this exhibit No. 3, there is shown under "A" the various basing points which are recognized basing points for which prices are published in the trade publications, together with the price per pound currently shown for those several basing points. While there are steel bars, certain size shapes and sheets rolled on the Pacific coast by mills which are affiliated with the two major steel companies, the prices that are shown as on cars, dock, Pacific ports, apply for material delivered by the coast mills as well as on material that is actually rolled in the East and transported to the Pacific coast. In other words, there is no differentiation in price as between materials actually rolled on the Pacific coast and material transported to the Pacific coast from eastern rolling mills.

Mr. REYNDERS. These prices are base prices, so-called?

Mr. LORETZ. They are base prices, so-called.

Mr. REYNDERS. We have had some testimony here in other lines of products where the base prices were not the realized prices. I am wondering whether all these companies on the coast paid the full price or whether there were some concessions.

Mr. LORETZ. I wouldn't be in a position to say that every one had paid the base price on every purchase, in fact I think it is generally known that that is not the case. However, it is reasonable to assume that concessions made on the Pacific coast if such concessions are made be substantially the same from the base prices as concessions that would be made from other basing points through the East and Middle West. However, I think as of the present time the base prices are generally recognized to be actual going prices, whereas 2 or 3 months ago that might not have been the case.

Mr. REYNDERS. In view of the increased present demand?

Mr. LORETZ. In view of the increased present demand.

Section B of exhibit No. 3, which starts down toward the bottom of page 1, is designed to compare the Pacific coast prices, the so-called on cars Pacific ports prices, with certain eastern base prices plus transportation costs. For example, No. 1 is on bars which are quoted and are sold at Birmingham at a base price of $2.15. The transportation cost from Birmingham to Los Angeles Harbor, for example, is as shown, made up of several factors, 65 cents per 100 pounds, making a total of $2.80. The base price on cars Los Angeles Harbor, which is also the base price on cars at other Pacific-coast terminal ports, is $2.75, a difference of 5 cents, and I might state again that that $2.75 price which is quoted on cars Pacific ports applies whether the material has actually been transported in through a Pacific port or produced at a Pacific Coast rolling mill.

Mr. REYNDERS. Would the governing base price be Sparrows Point?

Mr. LORETZ. Bars are not produced at Sparrows Point, sir. I have used Sparrows Point for the purpose of comparison on plates which are produced at Sparrows Point. That is example No. 3 on the next page.

In the case of shapes, which is example No. 2 of this comparison, it will be noted that the Philadelphia delivered price on shapes is $2.31½, which with transportation costs, all transportation costs added, total $2.70½ as against the on-cars Pacific coast or Los Angeles Harbor price of $2.70. That also would apply whether the material is rolled at a mill adjacent to Philadelphia or actually rolled at Torrance or Los Angeles or Seattle or other Pacific coast rolling mills. Just a half a cent difference, it will be noted, there. On plates, example No. 3, as corrected, the Sparrows Point price plus transportation is $2.59, whereas the base price on cars Los Angeles Harbor or other Pacific coast ports is $2.60. In other words, the base price at Los Angeles Harbor is more than the eastern price plus actual transportation costs.

On sheets, Example No. 4, the situation is the same. The Sparrows Point price plus actual transportation costs, total $2.49, as against a quoted price Los Angeles Harbor or other Pacific coast port, of $2.50, one cent over the eastern price plus transportation regardless of whether the material is rolled in a Pacific coast mill or is actually

shipped out of the East. I believe in other respects that exhibit is self-explanatory.

Acting Chairman KING. Do I understand that exhibit indicates that the cost of these various commodities referred to in the chart are substantially the same on the Pacific coast as they are on the Atlantic coast, or at Pittsburgh?

Mr. LORETZ. No, sir; the purpose of this exhibit is to show that the price on the Pacific coast is substantially the same or in some cases actually higher than the eastern price plus the full transportation cost.

Acting Chairman KING. Take shapes, Philadelphia delivered, \$2.21½, and then the freight, Los Angeles, 49 cents, and the car at Los Angeles, \$2.70. What is your contention there?

Mr. LORETZ. It is not the purpose to make any contention. It is just to illustrate that the Pacific coast prices are substantially the eastern prices plus actual transportation. It is not our purpose to argue either for or against the delivered price system. This exhibit is purely factual and designed to show that actually the existing prices on the Pacific coast are the eastern prices plus transportation, and the same as has been testified to with respect to tubular products, bars and plates, shapes and sheets are sold by mills on a delivered basis—to the best of my knowledge entirely a delivered basis. In other words, a steel user, a steel fabircator, in Los Angeles, pays \$2.60 for steel plates even though he could go back to Sparrows Point and buy it for \$2.10 and pay his own transportation cost and save a cent a hundred pounds.

Mr. FELLER. The point that you are making, I take it, is this, Mr. Loretz. Taking shapes, for example, a purchaser of steel shapes at Philadelphia, near an eastern mill, would pay \$2.21½ per hundred pounds. A purchaser at Los Angeles, who is also adjacent to a mill in Los Angeles making the same product, would pay \$2.70, although the product is actually delivered from a mill right near his plant.

Mr. LORETZ. That is correct.

Mr. FELLER. And the price which he pays, \$2.70, is substantially equivalent to the price at the eastern mill or near the eastern mill plus the transportation to the west coast, although the steel may never actually be transported.

Mr. LORETZ. That is correct.

Mr. REYNDERS. May I call attention to this fact, however, the rolling mills on the coast are all small-capacity mills and generally speaking hand mills and the cost of production there, would you not say, is substantially higher than in the mechanical mills of the East where large tonnage is rolled?

Mr. LORETZ. I couldn't definitely answer that, sir. I know that I have made certain checks as to the costs of some of the basic materials going into steel production out there as compared with steel production at eastern and southern points, also labor and power costs and other factors, and that does not reflect a higher cost on the Pacific coast. I am not a cost expert nor am I a middleman so I am not in position to weight all those factors and tell you what the final result would be.

Mr. REYNDERS. You would know, for instance, whether the so-called mill cost is higher or lower on the coast as compared with the Eastern mills?

Mr. LORETZ. I haven't access of course to the costs of the Steel Corporation or the Bethlehem Steel Co. and that would be the only sure way of knowing what those costs are.

Mr. REYNDERS. But you know those mills are hand-operated mills, on the coast?

Mr. LORETZ. That is my understanding, yes, although I couldn't qualify to testify with respect to that.

Mr. FELLER. Would you tell us whatever figures you have at hand?

Mr. LORETZ. Some of the factors, of course some of the more important factors, are the costs of scrap steel, pig iron, the labor costs and the power costs. I have some figures with respect to that if you care to have me read them into the record.

On No. 1 heavy melting scrap, scrap being used I believe 50 percent toa bout 70 or 80 percent in the production of steel on the West coast, the Pacific coast quoted price is only $14.35 per gross ton.

Mr. REYNDERS. What date was that?

Mr. LORETZ. As of November 9, 1939. The source for that is the latest Iron Age.

Acting Chairman KING. Where would that scrap come from?

Mr. LORETZ. That would be scrap available on the Pacific coast.

Acting Chairman KING. What would be the principal source of supply? What part of the United States would it come from?

Mr. LORETZ. It would originate right around the Pacific coast in the immediate interior such as Arizona, Nevada, and so on.

Acting Chairman KING. And then would be shipped to the East by boat?

Mr. LORETZ. No; it is my understanding that there is none so shipped. I might say that price of $14.35 apparently exists in spite of the heavy demand for scrap for shipment across the Pacific in recent months. That $14.35 may be compared with quoted prices at Pittsburgh, Pa., $21 to $22; Philadelphia, $21.50 to $22; at Chicago, $18.50 to $18.75; Youngstown, $20.50 to $21; Cleveland, $19 to $19.50; and Birmingham, which is the next lowest point to Los Angeles or to the Pacific coast, pardon me, $18.

Pig iron, while the class of pig iron that I understand is used in rolling mills is not publicly quoted in the trade papers, the price of that is, I believe, closely related to other classes of pig iron and a comparison as to No. 2 foundry pig iron may be interesting. The price delivered at San Francisco, Los Angeles, and Seattle on that is $26.50 as against $24.84, at Philadelphia for example; $23 for Chicago, Cleveland, and Youngstown; $24 at Bethlehem and Sparrows Point.

Mr. REYNDERS. In that connection do you understand those are prices at which the companies make their own pig iron and there is a great difference there from the user of molten steel and you couldn't make a comparison on that basis and get a correct result. Your scrap price moreover, I think reflects the very recent extraordinary conditions. Under conditions which would obtain normally the scrap would be comparable to that on the Pacific Coast, or very close to it.

Mr. LORETZ. The figures that I am submitting are as conditions are at the present time.

I made a check of the labor costs from the Bureau of Census, United States Department of Commerce, report dated March 7, 1939, on wage averages for the year 1937, which I understood are the last

year available. Under the classification of steel works, rolling mills, an average wage for San Francisco of $1,610 for roll workers is shown. Seattle happens to be exactly the same figure, $1,610; Los Angeles, $1,530 as against certain Eastern points; Youngstown, $1,715; Pittsburgh, Pa., $1,890; and Chicago, $1,730.

One other factor which I took occasion to check was power costs from the Federal Power Commission reports dated January 1, 1938. A comparison of Los Angeles and San Francisco, Calif., as against Detroit, Birmingham, Pittsburgh, Pa., Bethlehem, and Chicago, shows those two California cities to have lower costs on industrial power than any of the other cities cited.

Mr. Reynders. Do you have the figures?

Mr. Loretz. I have them, sir, but frankly I am not familiar with these units and just how to interpret them. I would be glad to give them to you during the recess.

Mr. Reynders. Mr. Loretz, the electrical power used in steel plants in the East is a byproduct and would be substantially only a fraction of the charge for electrical power where the power is purchased from the outside. It is merely a byproduct of the operation of their blast furnaces, so that it really doesn't compare with the prices paid otherwise.

Mr. Loretz. I am aware that is the case. However, I thought the figures might be valuable for comparative purposes only.

Mr. Reynders. For purposes of the committee we want the picture to stand out for the record according to the facts.

Mr. Lubin. Would that be true of the small independent fabricators?

Mr. Reynders. No; integrated companies.

Mr. Lubin. So that if you were comparing plants in the East of size equal to those in the West, those figures the witness gave wouldn't be comparable.

Mr. Reynders. Except that Mr. Loretz is comparing the United States Steel and Bethlehem situation with plants on the coast.

Mr. Loretz. I think it is fair to say where any company found it to its advantage to maintain its own power facilities it naturally would do so in lieu of paying the commercial power rate.

Mr. Reynders. Having been connected in the early stage with the Columbia Steel Corporation I happen to know that and I didn't want an incorrect impression.

Mr. Loretz. I am very glad to have you clarify the record and it it not my purpose to state that any steel company is charging too much for its products. I don't claim to be a cost expert. I am merely presenting this factual data in line with the request of the Department for what it may be worth. I will say, however, that it is the contention of the Pacific coast steel fabricators that steel sold on the Pacific coast, steel produced on the Pacific coast, I should say, should be sold based upon its cost of production plus a reasonable profit, whatever that may be, and not based upon eastern prices plus transportation costs.

Acting Chairman King. Your contention is, is it not, that steel on the Pacific coast by reason of the competition of eastern producers is too cheap, and the producers of fabricated steel on the Pacific coast ought to get a higher price. Is that what you mean?

Mr. Loretz. I am afraid if that is what I did mean I wouldn't say it. However, that doesn't happen to be the case. Steel out there is apparently priced as shown by this exhibit, substantially the eastern price plus transportation and is not priced based upon the cost of production at the mills out there. Of course we recognize that all steel is not produced on the Pacific coast but as to such shapes, sheets, and bars as are produced there it is our contention that they should be priced with relation to the cost of production there and that the user on the Pacific coast, the people whom I represent, should not be burdened with an eastern price plus a theoretical transportation charge.

Acting Chairman King. After all it comes down to the proposition I have made, does it not, namely, that you think you ought to get a higher price for the products fabricated on the Pacific coast than you are getting now and you don't get a higher price because of the competition from fabricated steel producers in the interior of the United States.

Mr. Feller. I think that is a misunderstanding. As I understand Mr. Loretz's point it was this. The members of his association are required in erecting the structure and fabricating the various products which they make, to buy steel which is manufactured by others, chiefly by Bethlehem and United States Steel Corporation, and those two manufacturers maintain a plant on the Pacific coast. Speaking as a steel consumer in this case, Mr. Loretz is saying that the price which my people pay for steel should be related to the cost of production at those plants which are located near us in the Western States, and his contention is that they are not so related but that they are based upon an eastern price plus transportation, which may be purely theoretical because the steel is made right out there on the Pacific coast, and his argument, therefore, would be that if the costs of making steel on the Pacific coast are either lower or substantially the same as the eastern costs, then the western consumer of steel is being penalized by the amount of theoretical freight, and in any event if the cost of making steel plus a reasonable profit is below the eastern price plus the transportation, theoretical transportation, then they are also being penalized to that extent. That as I take it is your contention.

Mr. Loretz. That is correct; yes.

Mr. Reynders. But I think in that connection you must compare like products. Isn't it correct that as far as shapes are concerned only the light shapes are rolled on the coast, no substantial amount of what you call heavy shapes is rolled?

Mr. Loretz. Not heavy shapes.

Mr. Reynders. How about plates? Bethlehem doesn't roll plates on the coast.

Mr. Loretz. The sheet gages only.

Mr. Reynders. Very light, so the comparison isn't exactly of the same kind.

Mr. Loretz. I have shown in exhibit 3 by an asterisk note which products are produced on the Pacific coast and which are not, although I haven't attempted to differentiate by sizes.

Mr. Feller. I think, Mr. Loretz, I am correct in saying that with respect to pipes which are not rolled on the Pacific coast, you will

make the further point that it costs even more on the Pacific coast than it does if you were permitted by the steel companies to buy your steel in the East and transport it by common carrier.

Mr. LORETZ. That is correct.

Mr. FELLER. In other words, with respect to those products which are manufactured on the west coast, the point I think Mr. Loretz has made is that the western steel consumer must pay his theoretical freight charge with respect to those products which are not manufactured on the Pacific coast. He must pay the actual freight charge, plus a little more.

Mr. REYNDERS. The difference between 259 and 280.

Mr. FELLER. Yes; when this exhibit was originally made up in August, a difference of 11 cents.

Mr. LORETZ. I might state further in that connection that the two major steel companies own and operate their own intercoastal steamship services, and that the great bulk of the tonnage transported for their account from the east coast to the west coast is transported in their own bottoms.

Mr. REYNDERS. I want to say I am thoroughly sympathetic to the interests of the fabricators on the coast. I don't want to have it misunderstood, but I would like to have the facts stand out as they are.

Mr. FELLER. May I also say, Mr. Chairman, for the record, at this point, that one of the problems to be brought up is in connection with the relative costs of manufacturing steel at the west-coast plant—two of the largest units in the industry—as compared with manufacturing steel at the eastern plant. At the hearing which will be held in January, I think it would be most instructive to the committee if both the United States Steel Corporation and Bethlehem were to prepare comparative statements of costs for submission to the committee. We have not had an opportunity to procure them and this somewhat fragmentary data which Mr. Loretz has been able to secure is not particularly conclusive.

I would also like to ask another question along those lines in connection with something which Mr. Reynders brought up. Mr. Reynders, if I remember correctly, pointed out that the mills which produce in California are hand mills. May I ask you whether it is a fact that hand mills in the East do not also sell steel products in California—eastern companies which still operate hand mills?

Mr. LORETZ. I am not familiar with which mills are so-called hand mills and which are not, so I would prefer to have that information supplied by a mill representative.

Mr. FELLER. Are you familiar with which eastern companies, in addition to United States Steel and Bethlehem Steel, sell on the Pacific coast? Do you know whether Lukens does, for example?

Mr. LORETZ. Yes.

Mr. FELLER. Central Iron, Steel?

Mr. LORETZ. They have.

Mr. FELLER. Phoenix Iron Co.?

Mr. LORETZ. They have. Jones & Laughlin Co. does regularly.

Mr. FELLER. Worth?

Mr. LORETZ. Worth, and Allan Wood. The Republic Steel Co.

Mr. REYNDERS. I would like to say, for the record that Worth and Central operate hand mills.

Mr. Feller. And they are enabled to sell on the Pacific Coast.

Mr. Reynders. On the basis outlined here; yes.

Mr. Feller. I believe you have stated, Mr. Loretz, that the Bethlehem and United States Steel Corporations are the only two companies manufacturing steel which also have affiliated fabricating units. May I ask whether the members of your association, as independent fabricators of steel, have found themselves placed at a competitive disadvantage with respect to the fabricating units of these two large steel companies?

Mr. Loretz. I can give you no specific case of such a disadvantage. I would say that it is only natural that there should be a disadvantage where one company engages in the entire picture from the ingots right on through the rolling mill, the transportation and fabrication processes, that that company would have, by the very nature of things, an advantage over a so-called independent fabricator who entered the picture only at the time of material companies into the fabrication stage.

Acting Chairman King. The large producer, starting in with the raw material and turning out finally the finished product—the integrated companies would have an advantage over the separate and independent small producers.

Mr. Loretz. I would say it is obvious that he has that advantage. Now whether he has abused the natural advantage that he has, I would not be able to say.

Mr. Reynders. On the other hand, the integrated company also has the investment of the ore, up to the stage of making the road material.

Mr. Loretz. That is absolutely correct.

Mr. Feller. I take it that in connection with this problem of competition with the fabrication affiliates of the steel mills themselves, you believe that this matter of prices of steel has some significance, your position being that the American Bridge Co., for example, could purchase steel from affiliates of the United States Steel Corporation at the eastern price fabricating structure partially in the east, and then bring it out west; whereas the people whom you represent must buy it at the western price and consequently may, in some cases, suffer.

Mr. Loretz. That is correct, and again speaking theoretically, I think it is obvious that what the company you mentioned might pay its mill affiliate, for example, for its steel, would be really a bookkeeping transaction anyway. Whether they paid a lower or higher price would be merely a bookkeeping transaction. Likewise what they paid their subsidiary transportation company for the transportation of that steel would be a bookkeeping proposition, regardless of what the bookkeeping entry might be.

Acting Chairman King. Well after all, in the final adjustment of the accounts of an integrated company they have got to take into account the losses and gains; take into account the advantages and disadvantages of being an integrated company.

Mr. Loretz. That is absolutely right.

Acting Chairman King. So you are complaining, if you make any complaint at all, because there are some companies that are integrated and produce steel and fabricated steel upon the Atlantic coast and

ship it around to the Pacific coast, because of those advantages which follow a large corporation, an integrated corporation, have a cost advantage over fabricators on the Pacific coast.

Mr. LORETZ. I want to make it clear, sir; we are not complaining; we certainly are not asking this Committee for any relief from a situation of that kind. We are merely saying that the major steel companies have that advantage, we are not contending that they are abusing any advantage that they may have.

Acting Chairman KING. Do you think in view of that advantage, conceded that it is, I am not expressing an opinion, do you think they ought to increase the prices in order to sort of equalize the disadvantage, if any, to which those whom you represent are subjected?

Mr. LORETZ. I am not advocating increase in prices at all. The only thing I may have advocated here was that the price of steel produced on the Pacific coast should reflect the cost of production there as long as they choose to produce steel there must be come saving in it. Let the man who is their customer there have some part of the advantage of their producing it there, and in that way it will tend to more nearly equalize conditions as between the independent fabricators and those who are mill affiliates.

Mr. FELLER. Do the companies which you represent conceive that they receive any advantage, price-wise, from the fact that steel is manufactured on the Pacific Coast?

Mr. LORETZ. To my knowledge they receive no advantage by reason of the fact that steel is produced on the Pacific coast. They of course do receive some advantage in that material is probably more readily available there by reason of its being rolled there but they receive no advantage in price.

Mr. REYNDERS. May I ask what is the present situation in regard to foreign steel on the Pacific coast? When I was still familiar with the situation some years back, there was a definite competition with Belgian and perhaps German mills shipping to the coast, at a substantially lower figure.

Mr. LORETZ. Yes; up until the recent disturbance in Europe, that was a factor, but a very small factor in that the domestic steel fabricators chose not to take advantage of that foreign material that was available there. Of course, that situation has changed in the last 2 or 3 months, there is no foreign steel being imported there to my knowledge.

FABRICATION IN TRANSIT

Mr. FELLER. Mr. LORETZ, I should now like to ask you about the mystic letters F. I. T. which are used so frequently in the steel industry. For the information of the committee, they refer to an institutional practice known as fabrication in transit. It is a subject of great complexity and we hope to be able to furnish the committee at a later date with a report which would deal in some detail with these perplexities, but at the present time I think it would be useful to the committee if some, shall I say, introduction to the subject were given from the standpoint of this particular group of steel consumers. Would you tell the committee what this fabrication in transit is?

Mr. LORETZ. I think the best way I can define fabrication in transit is that it is a process by which a steel company or a couple of steel com-

panies ship steel across the country and back again, and after all that has taken place the railroad owes them about 2 cents a hundred pounds. [Laughter.] Pardon that slight exaggeration, Mr. Feller.

As that is a rather complex subject I have endeavored in an exhibit, my exhibit 4, which has been distributed to members of the Committee, to give a specific example of what can occur under the existing price structure and the existing rail transportation rate structure with its fabrication in transit privilege.

Mr. FELLER. Just before you go into that, let's see if the Committee understand what the fabrication in transit privilege is. It is a—well, let me see if I can attempt a definition, perhaps you will correct me on it.

Mr. LORETZ. Fabrication in transit legitimately used is a privilege accorded by rail transportation companies almost generally whereby steel can originate at a mill and go to an intermediate point for fabrication and after fabrication can be reshipped to a more distant point. Initially the shipper or the fabricator will pay to the transportation company the rate applying from the mill to the intermediate fabrication point, then upon reshipping that to the more distant final destination, instead of paying the freight rate and charge applicable from the intermediate fabrication point to the final destination, he will pay the through rate from the mill origin point to the final destination, less the transportation he has already paid from the mill up to the intermediate fabrication point, plus a charge which varies from 2½ cents to 3½ cents per 100 pounds, depending upon territory, for that stop-off privilege.

Mr. FELLER. Let's take a very simple example. A fabricator is located, let us say, at St. Louis, and he receives a contract to award a structure at, well, say, Kansas City.

He may buy the steel from a Chicago mill, take the steel off the cars at St. Louis, fabricate the parts there and ship it out to Kansas City and pay in the last analysis the freight rate which is applicable on a through haul from Chicago to Kansas City instead of the two separate hauls, Chicago to St. Louis, St. Louis to Kansas City. Is that schematically about right?

Mr. LORETZ. That is correct—plus the small stop-off charge.

Mr. FELLER. I take it this exhibit which you have offered is intended to indicate the situation of the Pacific coast independent fabricator on particular hypothetical jobs, taking into consideration the pricing structure which has just been discussed and the existing fabrication in transit privilege.

Acting Chairman KING. It may be received for the record.

(The chart referred to was marked "Exhibit No. 1442," and is included in the appendix on p. 11013.)

Mr. LORETZ. That is correct.

Mr. FELLER. Tell us about your exhibit 2.[1]

Mr. LORETZ. In exhibit 2 it was brought out that the Pacific coast fabricator in the period treated was able to get only 2.4 percent of the business available during that period in the States of Arizona, New Mexico, and Nevada, Utah, Idaho, and Montana, which is quite a bit less than the Pacific coast fabricator feels that he should be able to obtain under normal circumstances and conditions. There are probably two main explanations for the Pacific coast fabricator to do

[1] "Exhibit No. 1440," appendix, p. 11011.

any business, first is the price structure, whereby the Pacific coast fabricator doesn't get any benefit, if there should be any, from the fact that steel, steel shapes, sheets and bars are produced on the Pacific coast. Secondly, it is shown by this exhibit that even under the existing price structure the Pacific coast fabricator would be able to do some business at Phoenix, Ariz., is the example shown, if the intermediate fabricator, and we use Birmingham as an example of an intermediate fabricator, paid the full, lawful transportation rates applicable in accordance with the tariffs on file with the Interstate Commerce Commission.

For example, number 1 on page 1 shows the material plus the transportation cost of the Los Angeles fabricator, based upon his present base price on steel shapes, which is $2.70. When he buys material for fabrication at the plant in Los Angeles he pays $2.72½, 2½ cents being an arbitrary charge for switching, which is added. The outbound freight rate on fabricated material from Los Angeles to Phoenix, Ariz., according to the rail tariff on file with the Interstate Commerce Commission, is 36 cents, which would give the Los Angeles fabricator a total material plus transportation cost of $3.80½. We have of course disregarded all other costs entering into fabrication and erection here.

Example No. 2, take a Birmingham, Ala., fabricator who will buy material at $2.12½ total at his plant at Birmingham and if he pays the normal freight rate applicable from Birmingham to Phoenix will pay $1.10, making the total landed cost, material plus freight, of $3.22½.

On page 2, example 3 shows what the fabricator in Birmingham can do under the existing price structure, under the existing transportation rate structure. I have only chosen Birmingham here as a point of example. That can be done and is being done by so called intermediate fabricators throughout the Middle West and South. The Birmingham fabricator can by applying—this is getting rather complicated again—by registering certain tonnage that he buys from a mill in Chicago at the identical Birmingham price, registering that tonnage as so-called transit tonnage, can then reship an entirely different tonnage of fabricated structural steel from Birmingham to Phoenix and instead of paying the Birmingham to Phoenix lawful published railroad tariff rate he will, by taking advantage of that 58 cents per 100 pounds that he or the mill has already paid from Chicago to Birmingham, coupled with the fact that the rate from Chicago to Phoenix through Birmingham is the same as the Birmingham to Phoenix rate, he can fix it so he will only pay transportation 52 cents per 100 pounds plus an F. I. T. charge of 3¼ cents, or total transportation cost of 55¼ cents, thereby reducing his total landed material plus freight cost at Phoenix down to $2.67¾.

Mr. Feller. The result of that I take it is that the Los Angeles fabricator, who is 395 miles away from Phoenix, cannot put that material into Phoenix at less than $3.08½, whereas the Birmingham fabricator who is 2,200 miles away from Phoenix, can put it there at $2.67¾.

Mr. Loretz. That is the final result. The final result I should say is to eliminate the man in Los Angeles or any fabricator in California from any chance to do business even at a point as close to Los Angeles as Phoenix, Ariz.

Acting Chairman King. Does the railroad get any benefit of that?

Mr. Loretz. The railroad loses about 55 cents per 100 pounds under its normal transportation charge, but I want to point out in all fairness that the man at Birmingham is not technically violating the law or violating the tariff in doing that. Many years ago the railroads put a provision in their tariffs that permitted substitution of materials of substantially the same class at the transit point, on the theory that it was not impossible but was impractical to attempt to continue the identity of steel through the fabrication process. As a matter of fact it is neither impossible nor impractical to continue the identity of steel through the fabrication process, but it is a custom of the trade, so to speak, that substitution be permitted in railroad tariffs and it has continued on to the present time. That is another matter that we recognize as not in the scope of this committee's investigation, but it is something that influences the trend of commerce away from normal channels and which we feel is deserving of this committee's attention, or should be called to this committee's attention in any factual presentation.

Acting Chairman King. Do you know whether this exact question which you have presented was submitted or has been submitted to the Interstate Commerce Commission either by shippers or by some railroads contending that the policy which you have outlined worked harm to the ultimate consumer or to the railroads or to the fabricator?

Mr. Loretz. It has been before the Interstate Commerce Commision a good many years ago and the Commission has never made any ruling ordering the carriers to refrain from this practice or finding that it was discriminatory. . I state that it is planned by our association to bring that matter before the Interstate Commerce Commission in a formal proceeding in the near future and we recognize that that is the proper remedy. I might state further in that connection that it is my understanding that the pending general transportation bill, S. 2009, amends or proposes to amend the Interstate Commerce Act to specifically insert reference to transit points in connection with either section 2 or 3 relating to discrimination, preference and prejudice

Acting Chairman King. So that I may get the illustration clearly in my mind, suppose that at Birmingham, Ala., a shipment of steel was made, for instance, to El Paso and at El Paso there was a fabricating plant, and the shipment from Birmingham to El Paso was fabricated at El Paso in plates or commodities for use upon the Pacific coast and thence shipped to Los Angeles. Would there be more than one charge, namely, the entire cost from Birmingham to El Paso plus from El Paso to Los Angeles?

Mr. Loretz. In the final analysis, there again the shipper or the receiver would pay the railroad company only the through rate from Chicago to Los Angeles plus his transit charge.

Acting Chairman King. What do you mean by present transit charge?

Mr. Loretz. The 2½ or 2¾ cents.

Acting Chairman King. In other words, treat it as a one-way transportation without a stop-over.

Mr. Loretz. That is correct.

Acting Chairman King. Pay freight only one way, there would be no double charge there.

Mr. Loretz. That is right.

Mr. Feller. The hour being rather late, just one other little point. Mr. Loretz mentioned early in his testimony a matter in connection with the land grant freight rate which he also stated at that time was a matter that his company, his association, is interested in, That matter is before another committee of Congress but I should like to ask Mr. Loretz to have an opportunity to file his exhibit on that land grant freight rate with this committee.

Acting Chairman King. It may be received.

(The exhibit referred to was marked "Exhibit No. 1443" and is included in the appendix on p. 11016.)

Mr. Loretz. This is a mimeographed exhibit consisting of two pages with full explanation. The purpose of the exhibit really is to show how business on Government projects located right in California, Oregon, and Washington, is diverted away from California shops and therefore from California labor by the operation of the land-grant statutes. I believe it is unnecessary to go into any great detail here because as Mr. Feller has said the repeal of the land-grant statutes is before another committee of Congress, in fact is included in the general transportation bill S. 2009 as amended.

Mr. Feller. I have no further question along this line.

Dr. Lubin. I would like to ask Mr. Loretz a question. Mr. Loretz, do you think there is any solution to this problem through private capital or new capital going onto the Pacific coast, erecting steel plants, and fixing their own selling prices based upon cost of production and reasonable profit, assuming you could get them to use that process and not take advantage of the umbrella of the basing point?

Mr. Loretz. I wouldn't say that our members would like to see additional capital out there because their relations with the Bethlehem and United States Steel are generally speaking very pleasant, their only quarrel, you might say, with those people being that steel is not priced at the present time based upon its cost of production plus profit.

Dr. Lubin. I take it that your members are anxious that a price be set in California which will have some relationship to the cost of producing such steel as is made in California.

Mr. Loretz. Yes, sir.

Dr. Lubin. Do you have any suggestion as to how to bring that about? Is there any way of bringing it about other than new capital coming in and refusing to adopt that method of price determination?

Mr. Loretz. In about May of 1938, you will recall, the various steel companies led I believe by the United States Steel Corporation, recognized a number of producing points throughout the country as basing points in and of themselves which had not up until that time been recognized as such. I believe the only points that are not recognized at the present time anywhere in the country are the rolling mills in the Western States. If the major steel companies see fit now or in the future to recognize their plants out there as basing points, pricing their products based upon cost of production there plus a reasonable profit, the same as they have their plants everywhere else throughout the country, our situation would be considerably alleviated, in fact I would say that we would have no logical complaint.

Dr. LUBIN. But in these other instances I note from your exhibit 3,[1] irrespective of where that basing point happens to be, the price happens to be the same, whether it be Pittsburgh or Chicago or Gary or Buffalo or Bethlehem or Cleveland. In other words, in case of plates, even Birmingham, Ala. What is the advantage of having Los Angeles and San Francisco made basing points if the price they are going to fix at those points is going to have no relationship necessarily to the cost of production at that particular point?

Mr. LORETZ. Oh, I say it should have a definite relation to the cost of production at those points, and I have assumed that in their adjustments of 1938 which are reflected in the present prices and in exhibit No. 3, that the costs of production at those points have been taken into consideration.

Mr. FELLER. The record shows only that the cost of production at Birmingham is probably lower than it is at other points.

Dr. LUBIN. I still am trying to see—perhaps it is an unfair question, Mr. Loretz, but I was wondering whether you would have any suggestion as to how to bring this situation about, namely, a price on the Pacific coast which has some relationship to the cost of production out there.

Mr. LORETZ. Yes; I think that should be accomplished. You are asking me if I know how that can be accomplished, how the steel companies can be prevailed upon to give such recognition to the coast?

Dr. LUBIN. Yes.

Mr. LORETZ. No; I have no suggestion to offer along that line. I think that lies with them.

Acting Chairman KING. You are familiar with the steel plants throughout the United States in the steel industry. There is a vast amount of capital, is there not, invested in the steel industry?

Mr. LORETZ. Indeed there is.

Acting Chairman KING. And the steel industry in its present stature, whether it is big or little, is more than adequate to supply all of the demands, consumptive demands of the people for many years to come, is it not?

Mr. LORETZ. In normal times; yes.

Acting Chairman KING. In abnormal times, any time that we have had since 1929, the steel plants are adequate, more than adequate, to supply all of the demands of the people. Is that true?

Mr. LORETZ. Of course at the present time as you possibly know, deliveries of steel are hard to get, I believe, in most sections of the country. Certainly that is true on the Pacific coast.

Acting Chairman KING. They are not manufacturing, are they, at full capacity?

Mr. LORETZ. They are pretty close to it.

Acting Chairman KING. There is much evidence here to show that for years they were as low as 15 percent, but they were 50 percent plus in some years.

Mr. FELLER. At the present time they are a little over 93 percent.

Acting Chairman KING. That is quite recent. Do you believe that the best economy would justify large expenditures of capital to expand capacity larger than the demands, the domestic demands, or the possible or probable market might require?

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[1] "Exhibit No. 1441," appendix, p. 11012.

Mr. LORETZ. I don't feel that investment should be made or that new capital should be invested in new plants beyond normal consumption.

Acting Chairman KING. If you had cotton mills in California that manufactured raw cotton into finished products they would furnish employment for a large number of people but unfortunately the cotton is grown in the South and it wouldn't be regard as wise and economic that they transport the cotton by rail or by water to California or to Utah in order to develop the cotton manufacturing industry there.

Mr. LORETZ. We have cotton in California and Arizona, sir.

Acting Chairman KING. Well, a very small amount.

I think that is all. Shall we take a recess? We will recess until 10:15 tomorrow morning.

(Whereupon, at 4:25 p. m. the committee stood in recess until 10:15 a. m., Wednesday, November 15, 1939.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

WEDNESDAY, NOVEMBER 15, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:13 a. m., pursuant to adjournment on Tuesday, November 14, 1939, in the Caucus Room, Senate Office Building, Senator William H. King, Utah, presiding.

Present: Senator King (acting chairman); Representative Williams; Messrs. Henderson, O'Connell, Avildsen and Brackett.

Present also: Hugh White and Miss Ellen Love, representing the Federal Trade Commission; John V. W. Reynders, representing the Department of Commerce; A. H. Feller, Special Assistant to the Attorney General; John W. Porter, Hyman Ritchin, Irving Glickfeld, Monroe Karasik, and Ward S. Bowman, Department of Justice.

Acting Chairman KING. The committee will be in order. Call your witnesses.

Mr. FELLER. I should like to make an announcement or two, Mr. Chairman.

The staff of the Department of Justice have been preparing for some time a series of statistical exhibits having to do with the distribution and pricing of steel products. These exhibits are being prepared on the basis of questionnaires which were sent out to some 50 steel companies and the steel companies have very generously cooperated in furnishing us with this information which has involved a great deal of work on their part. Unfortunately, these statistics and exhibits are not yet ready, due to the immense task of getting up the figures. In the near future the Department will submit these analyses in the form of a report to the committee with an accompanying statement. We hope to be able to send copies of these analyses to all the companies in the industry insofar as that is possible, and we hope to have them before the industry and before the committee in such time as will enable the consideration of these analyses at the hearing in January.[1]

Acting Chairman KING. It seems to me, in the light of the statement, that the reports which may be transmitted to the various companies who have answered the queries, that the transmission should be at an early date, so that they will have an opportunity to make such reply as they care to.

Mr. FELLER. That is precisely what I meant, namely, that we will try to transmit them as soon as possible, so as to permit adequate opportunity for the companies to present in January such reply or amplification as they may think necessary.

I should like to call, now, Mr. Bash and Mr. Schroeder.

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[1] The analyses were subsequently introduced as "Exhibits Nos. 2194, 2195, 2196, and 2197." See Hearings Part 27.

Acting Chairman KING. Do you solemnly swear that the testimony you shall give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

TESTIMONY OF S. M. BASH, MEMBER OF THE BOARD OF MANAGERS, THE STEEL EXPORT ASSOCIATION OF AMERICA, NEW YORK CITY, AND H. W. SCHROEDER, DISTRICT SALES MANAGER, NEW YORK OFFICE, WHEELING STEEL CORPORATION

Mr. BASH. I do.

Mr. SCHROEDER. I do.

Mr. FELLER. Mr. Chairman, in this hearing we have seen something of the iron ore industry, of the general pricing policy of the steel industry, of the pricing policy and the competitive situation in relation to two product categories, tin plate and tubes. We have seen something of the problems and attitude of a group of steel consumers.

We now turn to another set of problems, a problem which can be described as the relation between the United States steel industry and the steel industry of the rest of the world. And the problem revolves about the Steel Export Association of America.

Acting Chairman KING. Mr. Bash, is that a separate organization?

Mr. FELLER. I am about to have that explained. Mr. Bash, you are a manager of the Steel Export Association of America, are you not?

Mr. BASH. That is correct.

Mr. FELLER. And you are also vice president of the Bethlehem Steel Export Association?

Mr. BASH. It is a corporation.

Mr. FELLER. Yes, I'm sorry; and the Bethlehem Steel Export Corporation is a subsidiary of the Bethlehem Steel Corporation?

Mr. BASH. Yes.

THE STEEL EXPORT ASSOCIATION OF AMERICA

Mr. FELLER. Can you tell us briefly what the Steel Export Association of America is?

Mr. BASH. Yes, it is a combination of certain steel manufacturers of the United States who have gotten together under the auspices of the Webb-Pomerene Act, which was enacted, I believe, in 1918.

Mr. FELLER. Can you tell us who the members are?

Mr. BASH. Yes.

Mr. FELLER. Which companies are members of the Steel Export Association?

Mr. BASH. Armco International Corporation; Inland Steel Co.; Jones & Laughlin Steel Corporation; The Newport Rolling Mill Co.; Pittsburgh Steel Co., successor to the Pittsburgh Steel Products Co.; Republic Steel Corporation, formerly the Republic Iron & Steel Co.; Spang, Chalfant & Co.; Weirton Steel Co.; Wheeling Steel Corporation; The Youngstown Sheet & Tube Co.; The United States Steel Export Co.; and the Bethlehem Steel Export Corporation.

Mr. FELLER. When was the Steel Export Association formed?

Mr. BASH. I think around April or May of 1928.

Mr. FELLER. And who were the original members at the time of the formation?

Mr. BASH. United States Steel Products Company. The name has subsequently been changed to the United States Steel Export Company and the Bethlehem Steel Export Corporation.

Mr. FELLER. The United States Steel Products Company is a subsidiary of the United States Steel Corporation?

Mr. BASH. Correct.

Mr. FELLER. In other words, the Association then, was originally formed under the auspices of the United States Steel Corporation and the Bethlehem Steel Corporation?

Mr. BASH. Correct.

Mr. FELLER. Mr. Chairman, in order that the Committee may properly understand the organization of the Steel Export Association I think it might be well if I recalled to the Committee the terms of the act under which this organization was formed and is functioning.

The act is the Webb Export Trade Act, usually known as the Webb-Pomerene Act. (Act of April 10, 1918, ch. 50, 40 U. S. Stats. 516.) The pertinent provisions of the Webb-Pomerene Act are contained in section 2 of that act and they read as follows:

> Nothing contained in the act entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies" approved July 2, 1890, (that is the Sherman Anti-trust Act, in other words, nothing contained in the Sherman Anti-trust Act) shall be construed as declaring to be illegal an association entered into for the sole purpose of engaging in export trade and actually engaged solely in such export trade or an agreement made for acts done in the course of export trade by such association;
>
> Provided such association agreement or act is not in restraint of trade within the United States and is not in restraint of the export trade of any domestic competitor of such association; and
>
> Provided further, that such association does not, either in the United States or elsewhere, enter into any agreement, understanding, or conspiracy or do any act which artificially or intentionally enhances or depresses prices within the United States of the class exported by such association or which substantially lessens competition within the United States or otherwise restrains trade therein.

To summarize, an association formed solely for the purpose of engaging in export trade, or an agreement or act in the course of such export trade by the association is exempt from the antitrust laws, provided that the association agreement or act is not in restraint of trade within the United States, is not in restraint of the export trade of any domestic competitor of the association, and provides further that the association does not enter into any agreement, conspiracy or understanding, or do any act which artificially enhances or depresses prices within the United States, or substantially lessens competition within the United States.

I should like to offer for the record, Mr. Chairman, to be placed on file but not to be printed, the articles of association of the Steel Export Association of America.

Acting Chairman KING. It may be admitted.

(The document referred to was marked "Exhibit No. 1444" and is on file with the committee.)

Acting Chairman KING. Formed in 1920?

Mr. FELLER. Formed in 1928, sir.

Acting Chairman KING. May I inquire of the witness, was there not a preliminary organization, or a corporation perhaps of a different character, formed prior to 1928 under the Webb-Pomerene Act?

Mr. Bash. Yes; but not with the United States Steel and Bethlehem as members. There was a combination known as the Consolidated Steel Co., which was formed, I think, during 1918, which was made up of, I think, 11 individual steel companies in this country, and that organization carried through until the latter part of 1922.

Acting Chairman King. 'Twenty-two? Then what became of that organization?

Mr. Bash. They went out of business.

Acting Chairman King. It was not merged with the 1928 organization?

Mr. Bash. Not in any way.

Acting Chairman King. Then there was a hiatus between '22 and '28.

Mr. Bash. I might add that the Bethlehem Steel Co. was one of the members of Consolidated Steel Co., and when that disbanded Bethlehem formed the Bethelehem Steel Export Corporation to handle their foreign business.

Mr. Feller. I should like to go very briefly into the history of the Steel Export Association. Could you tell us what its general purpose is?

Mr. Bash. Yes, sir; its general purpose was to allow——

Acting Chairman King (interposing). Pardon me. Have you a copy of their charter?

Mr. Feller. The Articles of Association would state that.

Acting Chairman King. They would state the purpose.

Mr. Feller. Yes.

Mr. Bash. I think I might go back a little before the organization of the Steel Export Association of America, to at least give the committee some idea of the conditions that were prevailing, under which we had to operate, so that you might be able to form a picture and I am sure you will draw the conclusion it was advantageous under the enactment of the Webb-Pomerene Act. Prior to the formation of the Steel Export Association of America, we were not allowed to agree to prices with the various steel manufacturers in this country insofar as export trade was concerned, likewise with Europe, in view of the fact that it was contrary to the Sherman Act. Consequently, every steel company operated separately and independently. Our competitors were, in this country, our competitors in Europe.

We naturally, from our viewpoint, were at a considerable disadvantage, one point being that Europe was operated as a unit. They had, we will say, 12 competitors in the United States to contend with; we had those 12 competitors plus all of the rest of the world insofar as they were manufacturing steel. Therefore, when the Webb-Pomerene Act was enacted, it was the natural consequence, in view of the very severe competition that we had to contend with——

Acting Chairman King (interposing). You mean foreign competition?

Mr. Bash. Foreign competition, from the standpoint of lower labor costs, likewise the standpoint that the various governments of Europe were granting subsidies, help from the standpoint of finance, and giving all the possible help that they could to build up their export business.

I don't know whether it is appreciated, but some of the countries in Europe are dependent upon, must have, export trade, or die. We

will take, for instance, in England—take a commodity like tin plate, and take such a commodity as tubes. I think that you will find that their export business would run anywhere between 35 and 55 percent of their production in those items.

Then we will go over to Belgium, to Luxemburg, whose production is much in excess of their home requirements, so necessarily that builds up the most severe competition that can be imagined.

When the Webb-Pomerene Act was enacted we formed, that is the Steel Export Association formed, an association which would allow us to get together and establish prices, to divide the world's business amongst ourselves and if possible if we could arrange it, with Europe.

Acting Chairman KING. When you say the world's business you exclude the United States.

Mr. BASH. I am talking foreign, entirely, throughout. Naturally we took advantage of that. It eliminated a lot of useless, wasteless competition, as we view it, and in addition to that it allowed us to talk to Europe or to talk with the European manufacturers as a unit rather than to attempt to do it as separate units or rather separate individual companies.

Mr. FELLER. Mr. Bash, I am going to——

Mr. BASH. I didn't quite finish.

Mr. FELLER. Go ahead.

Mr. BASH. I am glad to say that since the enactment of the Webb-Pomerene Act we have been successful in forming various arrangements with Europe which enabled us to secure what we thought was a fair price and a fair—I won't say fair, an excellent percentage of the world's business based on our performance in previous years and which after all must be the yardstick for determination of course.

Mr. HENDERSON. When you say arrangement with Europe, did you make that arrangement through the cartel?

Mr. BASH. Absolutely. I am only speaking of the Steel Export Association of America.

Mr. HENDERSON. You say this excellent percentage of foreign business you have must of course be based upon performance in the past. Do you mean as to what the volume of American business——

Mr. BASH (interposing). In open competition.

Mr. HENDERSON. Has been in the past?

Mr. BASH. Yes, sir.

Mr. HENDERSON. That runs, may I point out, directly different from the policy so far as competition for business in this country is concerned. Testimony by witnesses yesterday and by Mr. Fairless is to the effect that the proper ratio is a ratio of capacity.

Mr. BASH. Well, that might apply to domestic business but insofar as export business is concerned, we may have a tremendous capacity in a certain commodity, but if we don't use it, naturally we can't expect the other fellow to give us something just because we have got the capacity.

Mr. HENDERSON. No; you can't expect him to——

Mr. BASH (interposing). And I don't know any sound argument as to why you should have it.

Mr. HENDERSON. How about the sound argument about going out and getting it?

Mr. BASH. We had our turn. We had our time in which we did that to the best of our ability.

Mr. HENDERSON. You mean you think we are past that time?

Mr. BASH. Well, I won't say that we are past that time. In free competition no one can tell what the result will be, and I certainly don't think that we have any advantage over Europeans. In open competition I think it is just to the contrary.

Acting Chairman KING. Mr. Feller will develop it.

Mr. FELLER. I am coming back to the matter of purposes of the Association. I should like to develop at this point the agreements with the foreign concern to which you had reference at the end of your exposition a moment ago. Could you tell us which were the principal agreements between the Steel Export Association and the foreign cartel?

Mr. BASH. Yes; we had an agreement which is no longer existent on pipe.

Mr. FELLER. By the way, I wonder if you could tell us in a rough chronological order.

Mr. BASH. I don't know as I could remember that. I believe that the first one was tinplate.

Mr. FELLER. Do you remember what that was?

Mr. BASH. Yes; here they are, the whole list of them. There was the oil agreement.

Mr. FELLER. What agreement?

Mr. BASH. Oil agreement.

Mr. FELLER. Oil country goods?

Mr. BASH. Yes; it was in effect from July 6, 1928, to March 31, 1933. It was superseded by another agreement as of December 17, 1928, which carried on to March 31, 1935, and we also had running along that same period of time an agreement known as the General Export Agreement which covered merchant tubular products. A part of that agreement was a subagreement or supplemental agreement; the duration for South Africa was applied to pipe, which apparently ran from April 13, 1929, possibly December 17, 1928 (I haven't the exact date) to March 31, 1935. In other words, the three of them tied in together. Along with that was an agreement which tied in with the pipe agreements known as the Swedish tube agreement, and the duration of that was from December 13, 1928, to March 1, 1930, and there was a British domestic market agreement applicable to pipe likewise, which was supplemental to the oil-country agreement and the general-export agreement, the duration of which was from May 1, 1929, to March 31, 1935.

Mr. HENDERSON. Is that the British-American agreement?

Mr. BASH. That was the British domestic market.

Acting Chairman KING. Mr. Feller, I assume that there were intercorporate (if I may view all these organizations as one corporation) agreements, that is to say two or three of the exporters might have an agreement with South Africa, but not all of them.

Mr. FELLER. I am going to develop that.

Acting Chairman KING. I didn't want to interfere with the witness.

Mr. BASH. May I answer that? In that respect all agreements were consummated by the Steel Export Association of America. Now the Steel Association of America consisted of various members who were in various groups. If they manufactured one product it would be in that group but not necessarily in another group.

Acting Chairman KING. Any member of the group might avail itself of the terms of any agreements negotiated by the parent organization.

Mr. BASH. Yes, sir; he could apply.

Mr. FELLER. Senator, there are also, of course, accompanying these agreements with the foreigners—there would necessarily have to be—some arrangements within the members of the Association as to the division of the quota.

Mr. BASH. Yes, sir.

Mr. FELLER. I wonder if you would go on with the agreements. I think it would be useful for the record to have a list of them

Mr. BASH. These various agreements which I mentioned here expired in 1935, much to our sorrow. It was at the end or the expiration of these agreements that the Europeans gave notice that they did not wish to continue, due, I think, primarily to the fact that they weren't getting along too well with their agreements in their domestic markets. We prevailed upon them to the best of our ability to continue. Notwithstanding that, at the expiration of the agreements they were not renewed.

Mr. HENDERSON. Mr. Bash, may I ask there which countries principally denounced the agreements?

Mr. BASH. The fight, if you term it such, was primarily between Germany and France.

Mr. HENDERSON. And that revolved around the ownership of the Saar properties?

Mr. BASH. I think that had quite a bit to do with it, to what extent I don't know.

Acting Chairman KING. The Americans didn't denounce it?

Mr. BASH. Absolutely not. We did all we could to retain it. Since that time we have been endeavoring to reformulate the pipe agreement. We have had, with Europe, sort of an informal oral understanding—what I mean by informal is that it wasn't subject to quotas and penalties. We were both maintaining prices with the hope and endeavor that by doing so we could convince them that the other side of the agreement should be reformed.

Following on that was the Welsh tin-plate agreement, which ran from October 1, 1928, to September 30, 1931.

Mr. HENDERSON. Did the Welsh denounce that?

Mr. BASH. Yes; they did, at its expiration, I think principally, and the only reason that I know of, because England had gone off gold, and I don't think I have to add anything to that.

Acting Chairman KING. That upset their economy.

Mr. BASH. It upset ours likewise, to the extent that our tin-plate export trade shrunk very, very drastically.

The first international tin-plate agreement, which by its terms was in effect from July 1, 1934, to June 30, 1937, was superseded by a second international tin-plate agreement, the duration of which was for the same period, July 1, 1934, to June 30, 1937.

Acting Chairman KING. I beg pardon for interrupting, but were all of those agreements of short duration?

Mr. BASH. Yes.

Acting Chairman KING. They didn't extend over, say, 10 or 15 years?

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Mr. BASH. Oh, nothing like that. I think the maximum was probably 2 or 3 years.

Acting Chairman KING. Was the objection to a longer period from abroad or from home?

Mr. BASH. Well, I think it was both.

Mr. FELLER. You mentioned the international tin plate.

Mr. BASH. Yes; this agreement was supplemental to the first international tin plate. I think I have read that. It was superseded by the second supplemental tin-plate agreement with the British, the duration of which was for the same period, July 1, 1934, to June 30, 1937. Then there was a supplemental tin-plate agreement with the Norwegians. This agreement was supplemental to the first international tin-plate agreement. Its duration was for the period October 17, 1934, to June 30, 1937. The time during which it was to be in effect was subsequently extended to June 30, 1938. The second international tin-plate agreement, by its term the duration of this agreement was July 1, 1934, to June 30, 1937, which likewise was amended or was extended to June 30, 1938.

The second international tin-plate agreement with the British is supplemental to the second international tin plate. By its terms its duration likewise was from July 1, 1934, to June 30, 1937. The time during which it was to be in effect was extended to June 30, 1938.

Then there was a proposed international tin-plate agreement which was to run from June 26, 1938, to June 30, 1941, which had never been signed as some of the details were still to be worked out, and of course with the war it never has been signed.

Then there was the first international rail agreement, the duration of which was from April 1, 1929 to March 31, 1935, which was subsequently extended to August 1, 1935. Then follows the second international agreement, the duration of which was from August 1, 1935, to July 31, 1940, which was superseded by a third international rail agreement, the duration of which was the same period, August 1, 1935, to July 31, 1940.

Tentative agreements, however, were in negotiation with regard to heavy products and sheet products. "Heavy products" was the term used to cover a number of products, namely, bars, plates, shapes, wire rods, semifinished material—I think that was all; and the sheet agreement covered hoops and strips, black and galvanized sheets.

Mr. FELLER. When were these tentative agreements?

Mr. BASH. Proposed, originally started?

Mr. FELLER. Yes.

Mr. BASH. During the early part, in fact February, of 1937 the Steel Export Association sent representatives to London, of which I was one, to endeavor to negotiate agreements on the products I had mentioned, if possible, providing of course the quotas and conditions were satisfactory.

The representatives of the association came to agreement insofar as a proposed agreement was concerned on behalf of the American steel producers, with the distinct, definite understanding that it was not to go into effect until groups were formed insofar as the products were concerned.

Acting Chairman KING. Groups in the United States?

Mr. BASH. Yes.

Mr. FELLER. When was that proposed agreement reached?

Mr. BASH. February 1937.

Mr. FELLER. Does that conclude the agreements?

Mr. BASH. Yes, sir; up to date, insofar as agreements and proposed agreements are concerned.

Mr. HENDERSON. May I have again the products that were in the February 1937 agreement?

Mr. BASH. Yes. From memory, they were bars, plates, structural shapes, wire rods; semifinished material, which consists of billets, blooms, sheet bars and so forth. I think that is all. And that came under the heading of the group known as the heavies. I missed one commodity there—skelp.

The sheet agreement covered hoops, strip, cold-rolled, black sheets, and galvanized sheets.

Mr. FELLER. Did it cover hot-rolled?

Mr. BASH. Oh, yes; hot-rolled and cold-rolled.

Mr. FELLER. Mr. Bash, I should like to have just a general sketch of a typical agreement so that the committee can understand what an agreement consists of.

The agreements, Mr. Bash—is this correct?—dealt primarily with the system for fixing quotas and the system for fixing prices. Is that correct?

Mr. BASH. Yes, sir.

Mr. FELLER. Did the agreements contain in them the quotas themselves, or were the quotas to be determined later?

Mr. BASH. No; the agreements included either the agreement or proposed agreement. The first determination was the quotas, and those agreements stated what the quotas were, insofar as America was concerned, and all of the other participants.

Mr. FELLER. And those quotas would be in percentage of total world business?

Mr. BASH. Yes; and possibly in some instances in tonnage, generally percentage.

Mr. FELLER. How about price? How was that determined?

Mr. BASH. Price was determined based on general conditions, circumstances, and some competition.

Mr. FELLER. And by whom was that price determined?

Mr. BASH. It was determined by the committees—I am speaking now insofar as the Steel Export Association is concerned—which were formed in various groups in the Steel Export Association. They made their recommendations to the board of managers, who subsequently came to agreement with the European members of the agreement.

Mr. FELLER. The general system, then, is, the agreement sets forth the percentage of the world business that each group, each national group, is entitled to, and then sets up an organ, a committee, which makes recommendations with respect to the price at which those exported commodities are to be sold.

Mr. BASH. Yes.

Acting Chairman KING. Were the foreign prices based upon the same level as the prices to be charged by the American producer?

Mr. BASH. Yes, sir; the prices were identical, or supposed to be identical.

Acting Chairman KING. And the various forms of money of the respective countries would be adjusted with respect to that price.

Mr. Bash. That was all taken into consideration. We will take a commodity, for instance, as tin plate. On tin plate the prices were named in this manner: We divided up the world and said that this part of the world is American influence, based on past business, where we received most of our business in the past in open competition. The rest of the world came under European influence. We tried not to disturb the manner of doing business in the various markets in the past, and if we went into, for instance, the European sphere of influence, with the old practice of quoting sterling, we quote our prices in sterling.

In South America, for instance, which we thought presented our sphere of influence, the Europeans were supposed to quote their prices in dollars.

Acting Chairman King. Gold and sterling, then, were interchangeably used as the base of computation and if there was a difference in price between gold and sterling—that is, as a base—the prices were arranged with reference to those differentials?

Mr. Bash. The idea was that we should both start out on equal prices until a position had been established, excess or deficit.

Mr. Feller. The agreements required, did they not, that each party to the agreement, each national group and members of those groups, comply with the prices determined by the committee?

Mr. Bash. You say why they did not?

Mr. Feller. No; I say the agreements did so provide.

Mr. Bash. That the price was to be determined.

Mr. Feller. And each party was bound to sell at that price?

Mr. Bash. That is right. Oh, wait—you were allowed to sell below that price if you were in deficit.

Mr. Feller. Yes?

Mr. Bash. So that you could establish—well, if I was in deficit I naturally would ask for some preferences if I couldn't sell it at the price, so as to make up my deficit position.

Mr. Feller. Yes; I think perhaps it would be helpful to the committee if you could just very briefly sketch out this system of deficits and penalties—I believe that is one of the words you use.

Acting Chairman King. You called it "deficit" instead of "in the red."

Mr. Bash. No; it was deficit in tonnage.

Acting Chairman King. You would be "in the red" then in measuring up your allotments.

Mr. Bash. That is right. We, as well as the European members of these agreements, reported in to a central organization our figures of——

Mr. Feller (interposing). That was in London?

Mr. Bash. Yes; ours, as well as their figures of sales and shipments for a given period. They were put together and naturally from that, by the application of the percentages, it was easily determined as to whether or not a member country was in excess or deficit. If there was a slight excess or a slight deficit, nobody was concerned particularly about it; we let it run for a reasonable length of time with the idea and effort of adjusting without disturbing market conditions.

Mr. Feller. If there were a substantial deficit what happened? Just to make it clear to the committee, the deficit would mean if the

American group, for example, had a quota of 100,000 tons and sold 80,000 tons, they would be 20,000 tons in deficit. What would happen then?

Mr. BASH. I think probably the best illustration would be to cite an instance. In the first tin plate agreement we became in very serious deficit. We complained; the Europeans did their utmost to assist us. In fact, the British went so far as to place a tonnage with us to rectify our deficit position.

Acting Chairman KING. The deficit wasn't caused by the Europeans' overselling in markets which ought to have gone to the American producers?

Mr. BASH. No, Mr. Senator; we had no division as to participations in particular markets. We could roam the world and so could the other fellow, but naturally our idea would be to sell in markets which would mean the most to us in return and for future relations.

Mr. FELLER. May I ask you this question at this point: You use the expression "roam the world." There were some markets in which you couldn't sell?

Mr. BASH. The only markets in which we had agreed not to sell were the home markets of the Europeans.

Mr. FELLER. In other words, you could not sell at all in Germany, France, Great Britain.

Mr. BASH. Not unless we had a prior agreement.

Mr. FELLER. Yes, Belgium and some of the others.

Mr. BASH. Yes; some of them provided for certain shipments into member countries who were participants of the agreement.

Mr. FELLER. And some provided, in the word of the agreement, that some markets were sacrosanct. No other party to the agreements could import.

Mr. BASH. Except into the United States.

Acting Chairman KING. Do those agreements contemplate or provide that where tariffs interfere with exports and imports there would be an adjustment of the tariffs?

Mr. BASH. It didn't touch or make any reference to tariffs in any shape or form.

Mr. FELLER. What happens when a party to one of these agreements is in excess of the quota?

Mr. BASH. He paid a penalty. He had accounting periods which ran for say a year or maybe 2 years, and if at the end of that period when the books were closed he was in excess, he paid a penalty to us, or we paid a penalty to him of an amount which had been predetermined.

Acting Chairman KING. Based on profits?

Mr. BASH. No, sir; based on our getting too much or too little of the business in an effort to see that there wasn't any inducement for a man to exceed his quota.

Acting Chairman KING. Suppose an allocation to A company was 50,000 tons in Argentina, and——

Mr. BASH (interposing). That couldn't be. We had no specific countries in which there was a quota for that country.

Acting Chairman KING. Suppose there was a quota for A company and none of the companies exceeded or came up to their quota, would A company, which was competent to supply the demands of the

market, be permitted to sell, without being penalized, in excess of the quota?

Mr. BASH. No, sir, any member country who sold in excess of the quota, no matter what the cost, was subject to penalty.

Acting Chairman KING. Even though he was importuned to make such sale and to fill the requisition by those who were in the group?

Mr. BASH. That is right.

Mr. AVILDSEN. Are you talking about a steel company or a group?

Mr. BASH. I understood he was talking about it as a member.

Acting Chairman KING. No: a group.

Mr. HENDERSON. He is talking about the members of the Export Association here, not about the members of the agreement. Do they sell trade quotas one against another?

Mr. BASH. If any member sold in excess of his quota he would be responsible to the Association for exceeding his quota and, necessarily, if the Association had to pay a penalty brought about by his excess sale, he would be expected to pay that international penalty through the Association.

THE PROBLEM OF NON-MEMBERS' SHIPMENTS

Mr. FELLER. Now, Mr. Bash, to clarify this further, let us take the case of the United States.

As I understand it, while a number of producers of steel are members of your association, affiliated in some of these groups, there are other producers of steel who have no connection with the association. Now suppose there were a tonnage of 100,000 tons allocated to the American group and the member of the group exported that amount but steel producers in the United States who were not members of the group—I believe the term is "outsiders."

Mr. BASH. I think the proper expression would be "nonmembers." Although the term "outsiders" has been used.

Mr. FELLER. Yes. Now suppose these American nonmembers also exported steel so that the total exports from the United States were substantially in excess of 100,000 tons. What happens then?

Mr. BASH. Well unfortunately, or fortunately, when we agreed to international quotas, our quota was arrived at by the utilization of all of the exports from the United States, irrespective of who made the shipment. Now coming back to your specific question, as I say, we have based on that, naturally, by the utilization of those figures we had to assume responsibility for the exports of all steel from the United States, regardless of who made it. Likewise the Europeans assumed the same responsibility.

Probably the question you are asking now is, why did you assume that responsibility?

Mr. FELLER. No. At the moment I am just trying to elaborate the mechanics. I take it, then, that in a situation that I have outlined the members of the Steel Export Association of America would be required to pay a penalty on overshipments, the excess shipments which were made by the nonmembers.

Mr. BASH. Exactly.

Mr. FELLER. You were about to state why.

Mr. BASH. With regard to why we assumed the responsibility, I think it was a reasonable responsibility assumed since our quotas

were based on that performance, with the distinct understanding that the members of the agreement would be, at all times, competitive.

Mr. HENDERSON. May I ask a question there? But the other participants in the agreement didn't have as many outsiders in their respective countries as the Export Association, did they?

Mr. BASH. I don't think they did.

Mr. HENDERSON. There are compulsory cartels in some of the participating countries and consequently a smaller percentage of outsiders. When you entered into the last ones the British had already come together into confederation.

Mr. BASH. That is right, and in assuming that responsibility, I think we made a natural assumption that being competitive it would be possible for us—that is, the people who had built up the business—to retain comparatively the same amount of business as we had had before.

Mr. HENDERSON. In these other countries, an outsider couldn't get a license to export unless the Government sanctioned it.

Mr. BASH. I don't think that is correct.

Mr. HENDERSON. In Germany it was. I know the British approached it certainly.

Mr. BASH. But it certainly isn't true so far as France is concerned.

Mr. HENDERSON. But it was in Belgium and in Luxemburg.

Mr. BASH. Possibly, I don't know, but I do know that insofar as France is concerned, there were exporters other than those in the cartel, to a small degree.

Acting Chairman KING. They had a good deal of independence there and competition in Jugoslavia and Rumania.

Mr. BASH. We were never disturbed by Rumania.

Mr. HENDERSON. Poland was a big question, was it not?

Mr. BASH. Poland created no disturbance.

Mr. FELLER. Now to complete the general outline of the form of these agreements I should like to read for the record what I might refer to as the United States clause, which I take it was incorporated in each agreement, special reference to the American market.

Mr. BASH. I think I would be very pleased to put that in.

Mr. FELLER. I am reading here from the Rail Agreement, August 1, 1937; clause 1–D reads as follows:

> It is understood that the Steel Export Association of America (hereinafter referred to as the American Group) is an association constituted under an Act of Congress of the United States of America approved April 10, 1918, and entitled "An Act to Promote Export Trade and For Other Purposes" commonly known as the Export Trade Act. As used in this paragraph the term "United States" shall have the meaning given in the Export Trade Act. Materials sold in the United States other than for export and sold for export to the United States shall not be covered by this agreement, and this agreement shall not be construed as in any way referring to trade in materials so sold and shall not be allowed directly or indirectly to restrain trade within the United States or the export trade of any domestic competitor of the American group or to enhance or depress prices of such material or to lessen competition therein within the United States.

In other words, in each of your agreements there is incorporated expressly what, in effect, is a paraphrase of section 2 of the Webb Export Act?

Mr. BASH. Yes, sir.

Mr. FELLER. I should like to go back now to the questions which we started in this discussion, namely, the purposes of the Association, the purposes of these agreements which the Association had entered

into with the foreign cartel. I would like to put you this situation and I would like to take a specific situation. In 1937 the United States was a large exporter of steel, was it not?

Mr. BASH. Yes; that was an exceptional year. A lot of business was diverted to this country due to the particularly heavy activity in Europe when they were unable to supply their requirements.

Acting Chairman KING. All commodities or steel?

Mr. BASH. Steel.

Mr. FELLER. And 1937 was also generally speaking quite a good year for domestic steel production in the United States.

Mr. BASH. I think it was, part of the year.

Mr. FELLER. Yes. Now in 1938, early in 1938, these various agreements that you had with respect to heavy steel and sheets came into force, did they?

Mr. BASH. Yes; the latter part of the year.

Mr. FELLER. And in the year 1938 the steel exports from the United States were substantially below what they were in 1937.

Mr. BASH. Very considerably below.

Mr. FELLER. The problem I want to put to you is this. Here we had 1937, a year which, generally speaking, was one of good business for the United States domestic producers. At the same time the United States domestic producers exported a good deal of material. In 1938, business was generally speaking pretty bad in the United States. Wouldn't one way to have smoothed out this curve of high production in 1937, generally speaking, and low production, generally speaking, in 1938, have been for the American producer to have intensified his efforts to export in 1938? In other words, shouldn't the export policy of the American producers be to attempt to use exports as a compensating mechanism wherever possible to take up the slack which domestic business condition may bring about?

Mr. BASH. Possibly; provided you are able to stand the gaff.

Mr. FELLER. Well, you were able to stand the gaff in 1937.

Mr. BASH. We were. There wasn't any competition.

Mr. FELLER. Was the foreign situation in 1938 very different from 1937?

Mr. BASH. Very materially. Europe back in the market were operating in the early part, other than England, I think possibly on the basis of 40 to 50 percent of capacity.

Acting Chairman KING. You mean '38?

Mr. BASH. Yes.

Acting Chairman KING. You said '37.

Mr. BASH. I am sorry; '38.

Mr. FELLER. Part of the reason of the high demand for steel in 1937 were the rearmament efforts.

Mr. BASH. That is what it has been attributed to. I am not sure that in major portion it was attributable to that.

Mr. FELLER. In 1938 the rearmament efforts were continued, weren't they?

Mr. BASH. Yes. That is why I say I am not so sure the increase in armaments contributed in major portion to increasing productivity of Europe.

Mr. FELLER. I am coming to this point. This is really my question: Taking the end of 1937, during a period when you were negotiating

these heavy steel and sheet agreements, weren't the American producers deliberately by virtue of these agreements placing themselves in the position where they could not follow this desirable policy of expanding exports in order to take up the slack which was inevitable in 1938?

Mr. Bash. Mr. Feller, I don't think you can look at it and single out any one year as an over-all policy. As I have mentioned before, the competition, open competition, prior to the time that we had agreements with Europe, was in a number of products ruinous and in the rest of them they certainly weren't anything to boast about insofar as our participation is concerned, looking at it over a period of years. What we were trying to do when we formed these agreements was at least to preserve and with the hope that by operating as a unit similar to Europe we would be able to increase our participation in the world's market, certainly at least to maintain what we had had. Our agreements were predicated, insofar as we were concerned, on the year 1936 as the reference period, whereas in agreements amongst the Europeans they used the year 1934 as the reference period and insisted that we use that year, which we absolutely refused, in view of the fact that it would give us quite a bit of tonnage less than 1936 would give us.

Acting Chairman King. Well, in 1938 did your group relax its efforts to find foreign markets and to obtain sale for the commodities which, under the quotas, members of the group were authorized to do?

Mr. Bash. No, we did not. We endeavored at all times to maintain our quotas, and I think that the records will show that we not only maintain them in 1938, but far exceeded them.

Acting Chairman King. Did you sell more steel in the aggregate in 1938 than in '37?

Mr. Bash. No, sir; nowhere near as much.

Acting Chairman King. Was it your own fault?

Mr. Bash. No, sir; we had an entirely different situation. In 1937 it was a seller's market.

Mr. Feller. Well, coming back to something which you have just said, and something you have referred to on several occasions, the fact that Europe acts as a unit. You referred to the fact that the European producers could sell in the market at a lower price. I take it, the theory also is if the American producers come together as a unit, they can receive a better bargain from the Europeans, or just what is the theory?

Mr. Bash. Absolutely. There is no question about as a unit we can bargain a lot better than individual companies.

Mr. Feller. Why should the European producers bargain? If they are in a position where they are hungry for exports. As you yourself said, they must export or die. They have, generally speaking, lower labor costs. Why should they be willing to enter into an agreement with you under which they permit you to participate in the market?

Mr. Bash. I assume for the same reason we entered into it, and that is to get a fair return, a reasonable return, and not have to sell at ridiculous prices brought about by competition.

Mr. Feller. In other words, the essential philosophy behind this is price stabilization through agreement, because if you don't have that, competition will drive price to ruinously low levels.

Mr. BASH. Yes, and has driven us out of the markets, for periods.

Mr. FELLER. One of the things I have difficulty in understanding in connection with the operation of such a system is just where the difference lies between the foreign market and the domestic American market. I mean, would you say, from your experience, in the operation of this system, that it is one which we ought to adopt in the United States as among our own domestic producers?

Mr. BASH. No, sir, I can't answer that at all. I know nothing about the domestic business. My efforts and entire business career have been in the export field, and I wouldn't attempt to comment insofar as the domestic situation is concerned.

Acting Chairman KING. Does the question of exchange cut any figure in these transactions? That is to say, it is evident that some companies want exchange so that they may pay obligations in foreign countries, or obtain commodities which they greatly need in foreign countries. And they haven't the gold with which to make payments, and therefore they have got to get exchange, and they get that exchange by selling and by receiving.

Mr. BASH. To the only extent that I can recall that that has entered into it, that has been, as I say, in a small portion, the barter system in Germany.

Mr. AVILDSEN. Mr. Bash, I understand that at the time the Webb-Pomerene Act was passed the Congress made quite an extensive investigation into the export situation, that the Interstate Commerce Committee of the Senate held hearings on it, and so forth. Are you familiar with their report to the Congress?

Mr. BASH. Well, I have an extract from the report of the Committee on Interstate Commerce of the Senate dated August 15, 1917, relating to the Export Trade Act, which I would like to read. It says:

> The Federal Trade Commission, in a summary of a report made May 2, 1916,[1] points out the liberality with which foreign and particularly European nations permit organizations or combinations with respect to their foreign trade. This is the common practice in Germany, England, France, Italy, Austria-Hungary, Switzerland, Holland, Sweden, and Belgium, as well as in Japan. In Germany alone prior to the beginning of the European War there were 600 important cartels or combinations embracing nearly every manufacturing and commercial industry in the Empire. Many of these organizations devoted themselves largely to the export trade, and they "carried on vigorous campaigns to extend their foreign business, to prevent competition"—

I think this is worth noting—

> "among German producers in foreign markets and to secure profitable prices."

Acting Chairman KING. May I say that there was a very exhaustive investigation made by the Senate Committee on Interstate Commerce of the Senate, and Senator Pomerene, who as I recall was chairman—I happened to be in the Senate at that time—made a number of very comprehensive addresses in the Senate explaining it, and giving the reasons why he and his committee recommended the enactment of the law.

Mr. HENDERSON. I might say, Senator, too, that Dr. Francis Walker, new Chief Economist of the Federal Trade Commission, has made himself especially familiar with the European cartel arrangements upon which this was based.

[1] Federal Trade Commission report on cooperation in export trade.

Mr. BASH. I didn't quite finish. I wanted to add:

Since the beginning of the European war the Allies have even organized buying agencies for the benefit of their governments and their people. Our merchants and manufacturers must meet this situation. Very few of them can compete singlehanded with these great combinations. Our belief is that it is necessary to permit our businessmen to form similar organizations or associations so as to enable them to meet foreign competitors on a more equal footing. In this way they will be able to reduce the selling cost and keep in closer touch with the demands of the foreign markets.

Acting Chairman KING. Mr. Feller, there is one phase that you interrogated the witness concerning which I am not quite clear on, if I may be permitted.

Mr. FELLER. Please do.

Acting Chairman KING. I do not quite understand the deductions to be drawn from your statement as to the reason why, in 1938, you did not sell as many products as in 1937.

Mr. BASH. First of all there wasn't the demand in foreign trade.

Acting Chairman KING. Was the competition fiercer?

Mr. BASH. No, sir; we had arrangements, agreements, but there wasn't the demand, and the total world exports, in 1938, were not as great as they were in 1937.

Acting Chairman KING. Then as I understand you, the demands for steel in the markets which we had secured entrance into, were very much less in 1938 than in 1937.

Mr. BASH. Very considerably less.

Acting Chairman KING. Is that the only reason why you did not sell more in 1938?

Mr. BASH. Yes; that is the only reason. If there had been more we would have sold more. Our quota would have given us more tonnage.

Acting Chairman KING. By reason of the reduced demands or the diminished demands in '38, was that brought about by reason of the intense competition, or simply because the market didn't require it?

Mr. BASH. I think it was primarily because the market didn't require it, it had been filled up, they had bought a lot of tonnage in anticipation during 1937.

Mr. O'CONNELL. I understand that under the quota arrangement your organization was entitled to as large a portion of the world business as it received and was entitled to receive in 1937?

Mr. BASH. No, sir; the reference year on which our quota was based was the year 1936.

Mr. FELLER. In 1936 the exports were substantially below 1937?

Mr. BASH. Quite so; but that was the highest year for quite a few years.

Representative WILLIAMS. Did you have a deficit in 1938 below your quota?

Mr. BASH. No, sir; just to the contrary. We were in excess.

Representative WILLIAMS. Was that true of the other nations?

Mr. BASH. No; if we were in excess they were in deficit, of course

Representative WILLIAMS. And you had to pay——

Mr. BASH (interposing). No, sir; we didn't pay them. One of the reasons that we exceeded our quota was for the fact that the Europeans were not taking business which they should have taken, and which was diverted to this country. Additionally, I think possibly the major

factor was that considerable business had been taken by nonmembers for which we assumed responsibility, and their tonnage materially increased our excess position.

Acting Chairman KING. Is that '38 or '37, or both?

Mr. BASH. That is '38. In 1937, on some commodities we received our quota, and I think possible as a whole we got what we were entitled to.

Acting Chairman KING. May the committee assume as a fact in this discussion that in 1938 you were ready to export larger quantities than you did, and the only reason why you did not do so was because the European demand or the world demand did not call for it?

Mr. BASH. We were prepared to do that providing we kept within our obligations to the other side.

Acting Chairman KING. Well, were you under obligations which precluded you from shipping more steel products in 1938 than you formerly had shipped?

Mr. BASH. Yes, sir; we had taken on some new agreements since 1937. This heavy group proposed agreement did not apply in 1937. For accounting purposes it began on some products on December 1, 1937, and on other products on January 1, 1938.

Acting Chairman KING. Then you had voluntarily—not voluntarily, because with two parties to a contract you can't say that one can act independently in a unitary way, and it is involuntary—but did you voluntarily relinquish any position you had theretofore had in the foreign market?

Mr. BASH. No, sir; I don't think we did. I think by those agreements we enhanced our position.

Mr. FELLER. May I just, for the information of the committee, give the figures on semifinished and finished iron and steel exports in the United States as reported by the Bureau of Foreign and Domestic Commerce of the Department of Commerce. In 1936, total exports of the United States were 1,221,209 tons; in 1937 they were 3,475,257 tons; in 1938 they were 2,149,334 tons.

Now, to simplify it, it was of the order of 1,000,000 in 1936, 3,000,000 in 1937, and of the order of 2,000,000 in 1938. Your agreements, of course, did not cover the whole field of semifinished and finished products, but since you base your quotas on 1936, on the 1936 performance, which was generally speaking of the order of one-third of our exportation in 1937, it is true, is it not, that you voluntarily assumed a position which was less than your performance of 1937?

Mr. BASH. I don't think that is a fair comparison, Mr. Feller. Here you are, taking a most abnormal year and trying to compare it with a more normal year.

Mr. FELLER. Of course I am not—I don't know just what the criterion of normality is. In 1937, which was the time when you were entering into these negotiations, you didn't know whether 1938 and 1939 would be substantially poorer.

Mr. BASH. Well, we had an indication, because we didn't really seriously enter into these negotiations until—I'm sorry——

Mr. FELLER (interposing). They began in February 1937.

Mr. BASH. No; I'm sorry. It didn't really start, we assumed no obligations, until late in 1937. We had a proposed agreement which

was made in February 1937. We endeavored, after we came home, to form groups. Business was so good that we didn't have time to put our efforts on the formation. In fact, I don't know as we were too keen on forming it at that moment, and we didn't really start to function even in a slight degree until late in 1937, at which time business had started to slip off.

Mr. FELLER. Let's just put our attention for a moment on this particular period. From whom did the initiative come for the formation of this heavy steel and sheet agreement? Who made the first proposal that there be an agreement along those lines, you or the foreigners?

Mr. BASH. The foreigners.

Mr. FELLER. Why did they do that, do you know?

Mr. BASH. Yes; I think I do; because they had recently made arrangements amongst themselves—when I say "themselves" I mean the Continent and the British—embracing those products covering exports to the world, and naturally they would like to have as many people in there and as many countries in there to make it operate.

Mr. FELLER. Did the fact that American exports in 1937 had increased some 300 percent over the preceding year, 1936, have anything to do with their attitude?

Mr. BASH. No, sir; because they approached us before 1937; as I recall it it was about in April, May, or June, in 1936.

Mr. FELLER. Did they become more anxious about this problem of American exports during the course of negotiations which apparently lasted the better part of the year 1937?

Mr. BASH. No; the negotiations didn't last, because they started in February and ceased, and toward the latter part of '37, when business slipped off very materially, naturally they wanted the agreements implemented.

Mr. HENDERSON. And you folks went over to the quarterly meeting of the cartel at Dusseldorf about November I think?

Mr. BASH. No, sir; I don't think we had anyone; I don't recall anyone being at Dusseldorf on these commodities.

Mr. HENDERSON. Did you have them on other commodities?

Mr. BASH. Yes; possibly on tin plate.

Mr. FELLER. I just want to get your answer clear on this point. Negotiations began in February of 1937. During the year 1937——

Mr. BASH (interposing). They were suggested in the middle of 1936. It lay dormant until we had—I won't say it lay dormant, but during that period we endeavored to form groups here and see if the whole subject was worth while from the standpoint of the various steel companies, whether they were interested to become members, and naturally we couldn't go over there and talk unless we went over and talked as a unit.

Mr. FELLER. Now, you had such a talk in February of 1937?

Mr. BASH. Yes.

Mr. FELLER. And then matters more or less became dormant again until the latter part of 1937?

Mr. BASH. Right.

Mr. FELLER. Now, during the year 1937 the United States became a very substantial factor in the world market, and American exports of steel products increased by 300 percent. Weren't the foreigners at all worried about that?

Mr. BASH. They might have been worried about it, but certainly they couldn't do anything about it when they were working to full capacity. There was a lot of business in 1937 that was directed to this country, and from countries that hadn't purchased from here for 10 or 15 years, and were only coming here purely and simply as a necessity.

Mr. FELLER. Didn't foreigners say in these meetings in the latter part of 1937 that American exports were ruining the price, Americans were exporting at cut prices?

Mr. BASH. Yes.

Mr. FELLER. And did they urge that as a reason why they wanted to go into this agreement?

Mr. BASH. We had a proposed agreement, and they wanted it to be implemented to preserve a semblance of order and stability.

Mr. FELLER. And in the latter part of 1937 they wanted the implementation partly because they felt that the American exports were disrupting the market?

Mr. BASH. I won't say exports, you mean price, don't you? I think that is a fair assumption.

Mr. FELLER. How about the tonnage itself. Did they feel the Americans were getting more of the world business than they ought to have?

Mr. BASH. I don't know. I assumed, since we had determined on quotas, in February, that they naturally would like to keep us on that basis.

Mr. FELLER. It seems to me that at the moment you are giving considerable emphasis to these determinations, these proposed agreements which were made in February. Did the American group feel that the determination which had been made in February was still valid at the end of the year, when they were faced with the fact that the United States had performed substantially better in 1937 than it had at the time this February conference was held?

Mr. BASH. Of course, when those agreements were talked about we were looking at the whole situation from the standpoint of the more normal, or of a normal, year. No one can anticipate or expect that business was going to continue on that basis; that is, the basis of 1937.

Mr. AVILDSEN. Excuse me, Mr. Feller. I notice that you speak of 1937 as being 300 percent better than 1936. As I read these figures that were quoted, the increase in 1937 over 1936 was 190 percent increase, and 1938 shows an increase of 75 percent over 1936. In other words, our exports in 1938 were 75 percent over 1936, and our exports in 1937 were 190 percent——

Mr. FELLER (interposing). I think the term I used was "the exports in 1937 were 300 percent of."

Mr. AVILDSEN. As I understood you, you said "over."

Mr. FELLER. They were three times the exports of 1936. It was a substantial gain.

Mr. AVILDSEN. It was a 190 percent gain in 1937 and a 75 percent gain in 1938, despite a lowered degree of buying in the world markets in 1938.

Mr. BASH. May I raise a question? Of that tonnage you mention in those three years, is that inclusive of scrap?

Mr. FELLER. Does that include scrap? The heading is "Finished and Semifinished Iron and Steel Products." We will have the record speak clearly on that point.

What I am coming to is this. In 1937—I am now not talking about what happened in 1938, what happened at the end of 1937 when the conversation began to implement these agreements—in 1937 at that point the United States producers performed rather remarkably in the export market, substantially more than they had in 1936. The agreement which you were discussing would have done this, would it not, for the foreigners: It would have reduced the participation of Americans in the foreign market below what it had been in 1937. That was No. 1. And No. 2, it would have kept the home markets of the foreign participants to the agreement sacrosanct, would it not?

Mr. BASH. Looking at it purely and simply for that year, but what we were endeavoring to do, and what we did do, we were living and operating from day to day. We couldn't anticipate what 1938 was going to do or 1939 or any other year. All we had to look at was what had happened previously in years gone by.

Mr. HENDERSON. I gather from what you said a little earlier, Mr. Bash, that what you were seeking in this agreement was stability of a certain kind over a period of years.

Mr. BASH. Stability and the maintenance and possibly an increase in American participation of the world's markets.

Mr. HENDERSON. That could only come, could it not, by a change in your quotas?

Mr. BASH. Yes, but——

Mr. HENDERSON (interposing). Or an increase in the total volume of business.

Mr. BASH. Quite so, Mr. Henderson, but I think it is a fair assumption that after a period of years probably due to the expiration of one agreement, if we had shown that we were able to sell our goods and something in addition to that, it seems to me that we would have every reason and right to go to the Europeans if they wanted to extend those agreements and say: "Here, we have performed, we have more than performed, we think we are entitled to an increase in our quota."

Mr. HENDERSON. To that extent then selling by the outsiders would be very helpful, would it not, in negotiating for a larger quota?

Mr. BASH. It would be helpful from that standpoint but it wouldn't be helpful from the standpoint of the responsibility that we had assumed.

Mr. FELLER. I hadn't quite completed what I was asking before. First, let me see if I can clear up this point. In 1937 the American producers had sold quite a good deal in the world market. Would they not have liked to sell as much as that in 1938?

Mr. BASH. Yes; they would.

Mr. FELLER. And more, and nevertheless you went into an agreement under which you obligated yourself not to sell as much.

Mr. BASH. That is right; based on past performance.

Mr. FELLER. What I am coming to is this: I can see what the European producers got out of this. They got protection, complete protection for their home markets and they got smaller American

participation in the world market—smaller, that is, than 1937. What did the American producers get out of this?

Mr. Bash. They got out of it for that particular period which no one could anticipate as to what was going to happen. We were looking at it from the broad viewpoint, which I still believe is one that on the basis of those allotments over a period of years is well worth while, and I think we have gotten something that means something.

Mr. Feller. You couldn't get as much as the Europeans, could you, because you couldn't make the American market sacrosanct because the law doesn't permit it?

Mr. Bash. Naturally not. As a condition there is no alternative. We must accept it as it is.

Mr. Henderson. In terms of your explanation of the value of this agreement, and considering the specific year of 1938, I gathered from the responses you gave Senator King and others that probably with an extraordinary amount of effort in that period you could have gone beyond what you did sell, but that you chose to be pretty much bound by the quota arrangements.

Mr. Bash. Well, if the other fellow holds the umbrella over us, yes; but if he meets us in open competition, I don't know what would have been accomplished.

Mr. Henderson. I will put it the other way. You didn't choose to try to find out whether the umbrella was going to be held up or lowered in 1938.

Mr. Bash. Well, it certainly is reasonable to assume, I think, Mr. Henderson, that it wouldn't be held over us an indefinite period of time if we were, you might say, running hog-wild and paying no attention to our quotas.

Mr. Henderson. I think that is a responsive answer and I will take it.

Acting Chariman King. Perhaps I have a lack of understanding of your former answers, but I would like to ask again why in 1938 there was such a marked reduction over your exports in '37. I understand from a statement which was made by Mr. Avildsen that notwithstanding the reduction in 1938 you sold 75 percent more than in 1936.

Mr. Bash. The demand in 1938 had increased materially from what it was in 1937. Insofar as America is concerned a lot of business was placed in this country because they couldn't get the material in Europe for the shipments that were required.

Acting Chairman King. Are you speaking of '37?

Mr. Bash. Yes; I say in '37.

Mr. Avildsen. You said '38 but you meant '37.

Mr. Bash. I am sorry. A lot of business came to this country which we hadn't seen for, as I said, 10 or 15 years, and it came here purely and simply out of necessity.

Acting Chairman King. That explains the large exports in '37.

Mr. Bash. In 1938 the demand materially decreased. that is, the world demand of steel for export.

Acting Chairman King. Did you voluntarily reduce your exports in '38, or was it the result of a lack of market?

Mr. Bash. We endeavored to live within the obligation which we had assumed which carried penalties, heavy penalties. We had given

an obligation, we had made an undertaking, we intended to and did our best to live within it.

Acting Chairman KING. If you had exceeded that you would have had to pay penalties.

Mr. BASH. Yes, sir.

Representative WILLIAMS. What did you do in '37 about the penalty?

Mr. BASH. The agreement insofar as these heavy products are concerned wasn't applicable.

Representative WILLIAMS. The fact that you had this agreement, your quota was established, was a kind of deterrent on your export activity.

Mr. BASH. If you look at it from that angle; yes.

Mr. HENDERSON. In a single year.

Mr. BASH. Yes.

Representative WILLIAMS. For any year in which you have quotas.

Mr. BASH. It is the question of whether that isn't a better thing for America than to have open, wide competition of the severest nature, and I am frank to admit that America can't stand up under that sort of competition as well as Europe.

Mr. FELLER. Would you agree with me in this, that in the year 1938 in view of the very marked contraction of the American domestic market there was the greatest need for the fullest utilization of the foreign market to the extent that American producers were able to reach it?

Mr. BASH. Naturally we need as much business in this country as we can possibly get, but we must not single out a year when business is poor and base our export policy on that. I think we have got to look at it over a period of years.

Acting Chairman KING. You might have retaliations.

Mr. BASH. Undoubtedly you would.

Acting Chairman King. And precipitate an international competitive system which would practically destroy the foreign market.

Mr. BASH. For us.

Acting Chairman KING. For American manufacturers.

Mr. AVILDSEN. Have you any idea, Mr. Bash, as to what rate of capacity the foreign, continental mills, were operating at in 1938?

Mr. Bash. Yes, in the early part it was my understanding that the continental mills were operating between 40 and 60 percent.

Mr. AVILDSEN. In other words, they needed more business and if they hadn't been members of the cartel they would have gone out and bid against you, bid lower prices, in order to get more volume.

Mr. BASH. There is not the slightest doubt of it in my mind.

Mr. FELLER. Would they also have invaded the domestic American market to a great extent?

Mr. BASH. I can't answer that, of course.

Representative WILLIAMS. What unusual situation which you described was there which caused that unusual demand in '37 which didn't exist in '38?

Mr. BASH. I think a good part of it has been attributed to the manufacture of arms, but personally I don't believe that the major part was contributed by that. I think it was just—I don't know how it occurred—but an increased demand.

Mr. Avildsen. It is true, Mr. Bash, that in this country there was a great deal of speculative buying in steel in 1937, wasn't there?

Mr. Bash. Yes.

Mr. Avildsen. I know in Chicago we bought in anticipation of rising prices. I assume that importers of steel in South America would have done the same thing, they would have anticipated the price and bought more than their normal requirements with the result that they couldn't buy so much in 1938.

Mr. Bash. In certain commodities. For instance, tin plate, I think purchases of tin plate were anticipated probably 6 months. Subsequently the tin plate business of the world dropped off very, very materially.

Representative Williams. There wasn't any let-up in the rearmament program in Europe during '38, was there?

Mr. Bash. Not to my knowledge, rather to the contrary.

Representative Williams. The thing that rather troubles me is why that unusual situation existed in '37 over there and didn't continue through '38.

Mr. Bash. I think possibly some of it, in fact I know some of it, was undoubtedly created by speculation, some of it was attributed to increase in armaments, and undoubtedly stocks were at their bare minimum.

Mr. Henderson. Then in '37 the total volume was made up of a combination of the demand for armaments and the demand arising from the general increasing tide of business. In '38, while the armament demand might have persisted, the general level of business may have declined and brought down the level of operations.

Mr. Bash. Exactly; in fact I think in 1938 probably armaments were increased, therefore it would seem to me as good reason that you can't attribute a good measure of the 1937 increase to armament.

Mr. Henderson. You mentioned that the American total in '38 represented some business you felt the European producers should have taken. Why didn't they take it?

Mr. Bash. That has been somewhat of a puzzle to me. I assumed that the reason that they didn't want to take it was this: That they were probably willing to let a certain amount of business escape them beyond the tonnage which was allocated to us rather than bring down their general price situation all over the world.

Mr. Henderson. Don't some of these companies also want to keep in reserve as much steel making capacity as possible?

Mr. Bash. That might have been the case, Mr. Henderson, but we are talking of '38 and——

Mr. Henderson (interposing). That was the year of Munich.

Mr. Bash. Quite so, but you had the mills operating in Europe somewhere between 40 and 60 percent. They still had room for quite a bit more business.

Mr. Henderson. Then you think that they allowed the Americans to do a more liberal amount than in 1936 in order to avoid price cutting.

Mr. Bash. That is one of the things, and now since you have mentioned it, undoubtedly another one is that they have certain trade preferences in some of the countries. For instance in Denmark the British have a trade agreement. Whatever we do, generally speaking,

the British will have an opportunity to take the business. We are not disturbed particularly about that because Denmark has never been a permanent American market. We would seek our business somewhere else.

Mr. HENDERSON. Where would that somewhere else probably be?

Mr. BASH. In the Far East, some other Scandinavian country, South America, any part of the world except the countries who are members, their countries are sacrosanct.

Acting Chairman KING. Let me ask you a question. Do you know what the exports in 1938 were by the outside American producers of steel?

Mr. BASH. No, sir; there is no way for us to determine that. We can imagine what they were, or we can arrive at some idea of what they were.

Acting Chairman KING. They were free, then, not having any cartel arrangement, to export as much as they possibly could find a market for in foreign countries in 1937 or '38.

Mr. BASH. Yes, sir.

Acting Chairman KING. In 1938 did they export more than they did in '36 or '37?

Mr. BASH. I don't know, but I will say this, that they exported more in 1938 than any other year comparable to 1938.

Acting Chairman KING. What would be the basis for comparison?

Mr. BASH. Suppose that 2,000,000 tons were exported in 1938 and 2,000,000 tons were exported in, say, 1936, '35 or '34. Their participation in the exports from this country in 1938 were very, very considerably larger than they had been in any previous year, other than '37 possibly.

Acting Chairman KING. Would not that argue that except for your cartel you could have exported more?

Mr. BASH. No, sir; I seriously doubt that they would have done it or we would have done it in open competition, or anywhere near the tonnage. In fact, I am satisfied that we wouldn't have.

Acting Chairman KING. Do you believe that the cartel was advantageous to the steel interests of the United States? I am speaking of its foreign interests, its foreign markets, in 1937 and 1938.

Mr. BASH. 1937 I think we can rule out, we didn't need any agreements in that year, it was a seller's market. In 1938 I think it was a decided advantage because undoubtedly we would have had the most severe competition.

Acting Chairman KING. Do you think you would have had any particular competition from the outsiders, using the term Mr. Feller has used, in 1937?

Mr. BASH. Undoubtedly, but we wouldn't have paid any attention to it; we had all the business we wanted.

Acting Chairman KING. Did outsiders do a considerable business?

Mr. BASH. They did a very nice business.

Acting Chairman KING. Did you feel in 1937 any pressure upon your markets from the outsiders?

Mr. BASH. We lost a very considerable amount of business.

Acting Chairman KING. In '38?

Mr. BASH. Yes, sir.

Acting Chairman KING. From the outsiders?

Mr. BASH. Yes.

Acting Chairman KING. By lowering, cutting, prices?

Mr. BASH. That is the answer to it. We don't have any definite figures. All the figures that we can present on that would be the exports of the members of the association as compared with the figures issued by the Department of Commerce and subtract one from the other.

Acting Chairman KING. If your group had cut prices to meet competition from the outsiders, would you have been violating any understanding you had under the cartel?

Mr. BASH. Decidedly so.

Acting Chairman KING. So that if you restrained yourselves it was because of your understanding or agreement with the foreign producers.

Mr. BASH. And the only reason.

Acting Chairman KING. But in the long run you believed that was advantageous because it would preserve for the future a situation that would be favorable to your group in finding foreign markets.

Mr. BASH. Without question I believe firmly and definitely that it would be advantageous to America to continue to operate on the basis of the cartels.

Acting Chairman KING. The plants of your group were in a position in 1938, of course, to have produced more than they did produce.

Mr. BASH. Yes, sir.

Acting Chairman KING. And there is no reason in the world, is there, why if you can find the markets, except if you are restrained by a cartel, that you should not seek those markets for the purpose of increasing your production and furnishing greater employment to the American people.

Mr. BASH. None whatsoever. In fact, that is what we are doing and have always done, to try to increase the exports from America.

Acting Chairman KING. By and large, and perhaps this is outside of the field of inquiry by the committee, would you say that the Webb-Pomerene Act has justified its enactment?

Mr. BASH. Absolutely.

Acting Chairman KING. Would its repeal be advantageous or disadvantageous?

Mr. BASH. Most disadvantageous.

Acting Chairman KING. Do cartels of the character you indicated under that bill abridge the rights of American citizens or interfere with American business or interfere with the small producer in any of the activities which might come within the periphery of the cartel agreements?

Mr. BASH. No, sir; I don't think so in the slightest degree.

Acting Chairman KING. Do you think you have increased the foreign markets for American steel production under the Webb-Pomerene Act?

Mr. BASH. Well, we have maintained them and possibly on a sound basis.

Mr. AVILDSEN. Mr. Bash, getting back to 1938, were you prompted in making those new agreements by any consideration of additional plant capacity of foreign countries in steel making? Were they building more steelmaking plants in other countries? Did that affect the situation?

Mr. Bash. No; I don't think so.

Mr. Avildsen. Mr. Hook testified here, the other day, about building some mills in Wales with the American process.[1] Did the Japanese add to their capacity?

Mr. Bash. Yes; the Japanese are not a member of our cartel.

Mr. Henderson. Nor Russia.

Mr. Bash. No.

Mr. Avildsen. Where did Japan buy that steel before?

Mr. Bash. In 1937 they bought a very large amount of steel here which normally was secured in Europe. Europe has supplied many, many more times of the Japanese requirements than we have.

Mr. Henderson. Along the line of Senator King's inquiry I take it from your testimony that most of your experience has been in this foreign field. Have you not observed that the trade, both import and export in various countries, is passing pretty largely into what might be termed cartel organizations; not only on the selling end are there closer-knit groups, but also on the buying end? Doesn't a producer from an individual country, say America, if he wants to sell into Japan or sell into some of the other markets, have to deal with an import group also, deal with a bloc?

Mr. Bash. In varied forms; yes.

Mr. Henderson. In other words, it gets to a place where both on the selling end, that is your competitors, and on the buying end, you are almost driven to the necessity of dealing with a group as a group.

Mr. Bash. Absolutely, and there are more combinations being formed every day both in selling and buying with regard to export trade, and of necessity, to be able to defend yourself.

Acting Chairman King. So you meet sales resistance not only from the groups formed in foreign countries but by the governments assisting them or being parties to them.

Mr. Bash. Exactly. You must have some unit to be able to meet the other unit on the same ground.

Mr. Feller. I should like to consider a bit more in detail the events which led up to your agreement in the early part of 1936, and I should like to turn for a moment to Mr. Schroeder.

In the latter part of 1937 and the early part of 1938 you were a manager of the Steel Export Association, were you not, one of the board of managers?

Mr. Schroeder. I was selected to serve with the board until reorganization.

Mr. Feller. You were selected by the Wheeling Steel Corporation——

Mr. Schroeder (interposing). No; selected by the board to serve with them.

Mr. Feller. But you were then with the Wheeling Steel Corporation and still are today?

Mr. Schroeder. Yes.

Mr. Feller. You no longer serve with the Steel Export Association?

Mr. Schroeder. I am still the representative of our company to the Association.

Mr. Feller. You, however, do not sit with the board?

[1] See Hearings, Part 19, p. 10694 et seq.

Mr. SCHROEDER. No.

Mr. AVILDSEN. Will you tell us the witness' name?

Mr. FELLER. Mr. Harold Schroeder.

Mr. AVILDSEN. His position.

Mr. SCHROEDER. District sales manager, New York office, Wheeling Steel Corporation.

Mr. FELLER. Mr. Schroeder, I should like to have you identify this letter, which is signed by you, dated February 7, 1938, addressed to the attention of Mr. J. L. Neudoerfer, vice president and general manager of sales, Wheeling Steel Corporation.

Mr. SCHROEDER. That is my letter.

Mr. FELLER. I offer this for the record.

Acting Chairman KING. It may be received.

Mr. FELLER. I don't think it is necessary to have it printed. It may be placed on file with the committee. I shall read the pertinent parts.

Acting Chairman KING. It may be received and placed on file.

(The letter referred to was marked "Exhibit No. 1445" and is on file with the Committee.)

Mr. FELLER. The letter begins in this fashion:

> Supplementing my letter of January 27th and our conversation during your visit here on February 2nd, subsequent developments have been as follows.
>
> The foreign delegation, consisting of the Earl of Dudley, I. F. L. Elliott, Gerard Spencer Summers, and Hector Dieudonné, arrived on the Normandie Friday morning, and we met in the board room of the Guaranty Trust Company, 14th floor, 35 Nassau Street, at eleven o'clock.
>
> Lord Dudley spoke for the foreign group, reminded the Corporation and Bethlehem that they had made an agreement last February conditional upon the later formation of a sheet group, that the International Cartel felt that the American agreement had not been lived up to, and that the formation of a sheet group was a necessary part of the American agreement; they had come over here to find out for themselves the reason for the delay, and if matters were not buttoned up by Wednesday next, when they intended to return on the Queen Mary, the International Cartel would take drastic steps toward lower prices and throw the world markets open. The inference was plain that such a low level of export prices would probably result in foreign makers attempting to share in the large and relatively high priced American domestic market. Discussion of this point was discouraged by members of the American group on the plea that they had only come prepared to discuss export matters.

The letter goes on to say:

> Mr. Bash of Bethlehem, acting as chairman of the meeting and spokesman for the American group, explained to the foreign visitors that the Corporation and Bethlehem had lived up to their engagements, but that the difficulty lay in their inability to control the outsiders, and to date, their inability to bring the outsiders together into a sheet group.

The rest of the letter deals with the matter of arriving at an agreement among the American producers as to their participation in the quotas. Mr. Schroeder, I take it that this letter correctly reports what went on in the meeting that Friday morning?

Mr. SCHROEDER. As far as I was able to report it, sir.

Mr. FELLER. And I take it that this letter in effect states that the foreign delegation, headed by the Earl of Dudley, left the inference or made the inference with the American group that if an agreement were not reached with the foreign cartel, that the cartel producers would cut prices in the export market and would probably attempt to share in the American domestic market. Was that inference

something which disturbed the American producers who were present at that meeting?

Mr. SCHROEDER. That was not discussed.

Mr. FELLER. That was not discussed at all?

Mr. SCHROEDER. It was mentioned by them and if I remember personally we advised them that we were not prepared to discuss that. I explained to them that it was not in accordance with our laws to discuss a thing of that kind and we declined to discuss it.

Mr. FELLER. Would you say, even though the matter was not discussed, that this inference that if an agreement were not reached the foreign producers would probably attempt to share in the American domestic market, that is to say, to import steel into the United States—would you say that influence operated as an inducement to the American producers to conclude this agreement?

Mr. SCHROEDER. No, sir.

Mr. FELLER. What would you say to that, Mr. Bash?

Mr. BASH. Absolutely of no part.

Mr. FELLER. You recall the statement being made?

Mr. BASH. No; I don't recall the statement being made.

Mr. FELLER. You don't recall the statement being made?

Mr. BASH. I won't say it wasn't made, possibly it was made, but I know what the answer would be as is indicated by this letter. We have never, under any circumstances, discussed the domestic trade of this country in relation or rather in exchange for, any quotas that have been granted.

Mr. FELLER. There are really two questions. One: whether or not you have discussed them, and you have answered that in the negative. The second question is, to put it bluntly, whether or not the foreign delegation made a threat or inferred a threat of competition in the American market and whether or not such an inference or threat resulted in your being more ready to enter into an agreement.

Mr. BASH. To answer them separately, if they had made a threat I wouldn't have taken it seriously because they have been shipping into this market for years and in an appreciable tonnage, and I think, possibly, if you look at the figures—I don't know what the result is but I don't think they have discontinued shipping here.

Mr. FELLER. No; but the problem is one really which was raised by a question which Mr. Avildsen asked you. As he pointed out, Mr. Hook told us about the increasing capacity in foreign countries. Now if we were to attempt to put ourselves back in the situation of 1937—let us assume at that time a hope that the dizzy pace of rearmament in Europe would slacken—wouldn't that have released so much capacity in Europe that it would have put the foreign producers in a position to export a great deal more steel to the United States?

Mr. BASH. I think they have been in that position except possibly for a year there when business was particularly active.

Mr. FELLER. Mr. Schroeder, I hand you a letter signed by you, addressed to the Secretary of the Steel Export Association of America, on the letterhead of the Wheeling Steel Corporation, dated April 12, 1938. This letter was received by us from the files of the Steel Export Association, and attached to it was an unsigned document headed: "Report from the board of managers of the Steel Export Association

to the presidents of the member companies." The letter to which it was attached stated [reading from "Exhibit No. 1446"]:

Please refer to the meeting of the Board of Managers on April 5 summarizing the present status of the S. E. A.

The next step is to formulate the recommendations of the Board as to what should be done about it. To crystallize our discussion, I am taking the liberty of sending to you a draft of the proposed letter setting forth the recommendations of the Board that should be submitted to the presidents of the member companies, in compliance with the request from our company.

Will you identify these please, Mr. Schroeder?

Acting Chairman KING. That to which you refer, the report from the board of managers.

Mr. FELLER. That is what I am inquiring about.

Mr. SCHROEDER. Yes.

Mr. FELLER. I offer this to be printed.

Acting Chairman KING. It will be received.

(The documents referred to were marked "Exhibits Nos. 1446 and 1447, respectively, and are included in the appendix on pp. 11017 and 11018.)

Acting Chairman KING. Mr. Bash, have you seen the letter and accompanying report of the Board?

Mr. BASH. Yes; I have a copy.

Acting Chairman KING. You are familiar with the contents?

Mr. BASH. Yes.

Mr. FELLER. I shall read the first five or six paragraphs of this letter at this time—I beg your pardon, the paragraphs of the report [reading from "Exhibit No. 1447"]:

At the request of one of our members, we are addressing each of you, first, to give an authentic description of the present status of the Steel Export Association; second, to report the definite steps which we are agreed should be taken to complete the reorganization and enlargement of the Association. We have been working for several months to accomplish this—much has been done, but there still remain many loose ends to be tied up before the Association can function properly. We believe that this matter is of importance to all member companies and solicit your aid in effecting a settlement of these outstanding points.

First, please study carefully the attached report of things as they are. When the Association was formed in 1928, quota participations were based upon performance during open competition of the three years preceding, and the principle of quotas in proportion to capacity was denied in its entirety. Since then, because of the operation of the Association, and its various international agreements, and more recently because of an international shortage of steel, prices for export rose from the point at which only a few companies were interested, to levels at which all were desirous of participating, particularly in view of present low operating rates and dearth of domestic business.

In view of the fact that the letter was mimeographed for Members of the committee, I shall skip to the bottom of the first page.[1]

At this point in the development of general bad feeling, it became necessary to consider the forming of a Heavy Steel Group in the S. E. A., (I take it that is the Steel Export Association) followed by a Sheet Group. Recognizing the primary importance of agreement on quotas, all of the early discussions centered on this point, and there remain only a few percent to be reconciled before attaining 100 percent quotas in each product.

These cases are set forth in detail in the statement attached, and will not be considered separately here, beyond the warning that close as we are to 100 percent, no product group can function with a true regard for the rights of all its members until those rights are clearly agreed upon. Until quotas come out even at 100 percent, there has been no agreement, and groups which now are nearly completed are in serious danger of falling apart again unless an early settlement can be reached. Also, and more imminent, is the danger that the British and

[1] "Exhibit No. 1446," appendix, p. 11017.

Continental parties will renounce the present tentative agreements unless they are made more satisfactorily effective. Such renunciation would inevitably be followed by an influx of low-priced foreign steel in domestic markets.

Mr. Schroeder, what were these tentative agreements?

Mr. SCHROEDER. Beginning with heavy steel, memorandum of February 1937—Mr. Bash spoke about it; continuing with the visit of the foreign members reported in the letter just put in the record, February 7, 1938.

POSSIBLE EFFECT OF CARTEL CONTROL ON HOME MARKETS

Mr. FELLER. Mr. Schroeder, why should the renunciation of these tentative agreements inevitably be followed by an influx of low-priced foreign steel in domestic markets?

Mr. SCHROEDER. That was my opinion at the time, sir.

Mr. FELLER. And what was that opinion based upon?

Mr. SCHROEDER. Experience in knowing what happens in export markets when there is no cartel control.

Mr. FELLER. In other words, your experience at that time had been that when there is cartel control the American domestic market is to some extent saved from invasion by foreigners.?

Mr. HENDERSON. "Sacrosanct" I believe is the word.

Mr. FELLER. No.

Mr. SCHROEDER. I have no application to the word "sacrosanct" in this case.

Mr. FELLER. No; I don't think that word would necessarily apply.

Mr. SCHROEDER. I was speaking of my own experience.

Mr. FELLER. Your own experience, then, was that when a cartel arrangement was in effect, the American market was, to some extent, protected from an influx of foreign steel?

Mr. SCHROEDER. Not in the manner that you infer. I am speaking of a case more of simple arithmetic.

Let us suppose that something has sold for $5 in this country; it sold for $5 in England or on the Continent, and is also being sold for $5 in South America. We both ship in our export markets and we get the $5-price in South America and that is a stabilized market—that condition is a stabilized market. Now suppose there were no stabilized market and the price in South America were driven down to $3, the man making this commodity in England or the Continent would not be as much interested in selling in South America at $3 as he would be in shipping to this country, paying our duty, and selling in a $5-market. That is what I had in mind.

Mr. FELLER. Then may I ask you whether, in your experience, the conclusion of a cartel agreement of this character is in part induced by the fact that if it were concluded, this condition of probable invasion of the domestic market would be obviated.

Mr. SCHROEDER. No, sir. All of these export international agreements are based upon getting a higher price for the product which we export.

Mr. FELLER. May I ask you then this. This is a question I have asked once or twice before: Would you say that the anticipation of probable increased imports into this country, in the absence of an agreement with the cartel, was in some degree an inducement to the American producers to enter into such an agreement?

Mr. SCHROEDER. No, sir.

Mr. FULLER. Well, in this proposed report you were about to tell your members that such would be the case.

Mr. SCHROEDER. That report was written by myself, sent to the Association for their consideration; it was not sent out. A report from the Association I think was sent out on the 19th, which went to all members.

Mr. FELLER. That, I believe, would also be clear from the fact that the letter speaks of the only satisfactory proposal. But laying aside the fact that the report wasn't sent out, did not you, as the draftsman of that report, think at the time of this statement which you made, that the renunciation of the tentative agreement "would inevitably be followed by an influx of low-priced foreign steel in domestic markets?" Did you not think personally at that time that that would be a reason why the members to whom this report was destined would be willing to enter into the agreement?

Mr. SCHROEDER. No; I think I painted as complete a picture as I could.

Mr. FELLER. You were doing propaganda work, is that it?

Mr. SCHROEDER. No; it was my duty to report to all my principals fully. Perhaps I should go back. The meetings of our executives in February resulted in an assurance to the foreigners that in principle we would execute and implement these agreements. This letter was written several months later. Our executives asked me what had happened, why hadn't we reached a conclusion. I said we had been blocked at this point and it was in an attempt to report back to our executives where we stood that I asked the Association to make such a report and submitted to them a tentative draft of what might be said, and I said [reading from "Exhibit No. 1446"]:

> There are doubtless other points which should be included in such a letter, and of course there will be differing views on many of the issues discussed.
>
> I believe that wherever a real difference of opinion exists it will be desirable to include both the majority and the dissenting opinions in our report to the presidents.

Acting Chairman KING. Was it your view that if the American cartel, that is probably not the proper term, but this group, which you and Mr. Bash represent, abandoned or renounced the agreements which had been made with the various European nations, that by way of retaliation—probably that is too strong a term—they might reduce prices, flood the market, and sustain losses themselves in order to penalize the American producers for their renunciation of the agreement?

Mr. SCHROEDER. I think it would be too expensive for them to try to do that because those countries export from 30 to 80 percent of their entire production. This country I don't believe has exported 10 percent in any year.

Acting Chairman KING. I understand from one of the witnesses, from Mr. Bash, that up to 60 percent of the capacity in 1938——

Mr. SCHROEDER (interposing). Were operating, but not for export business. They were operating at 40 to 60 percent of their capacity to total business. Of that a good deal was going to export, but Belgium and Luxemburg, depending on their export business, can't afford to ship 85 percent of their production into export markets to retaliate with us at a low price. They have to get a price to live.

Acting Chairman KING. Does not the cartel permit them to get a higher price?

Mr. SCHROEDER. That is the purpose.

Acting Chairman KING. Then if the cartel were departed from by the American group it would jeopardize to some degree their market?

Mr. SCHROEDER. Yes.

Acting Chairman KING. Lower their prices?

Mr. SCHROEDER. Right.

Mr. BASH. Let me interrupt; in that respect I would like Mr. Feller, if he will, to read the third and fourth paragraphs of Mr. Schroeder's letter, which I think will bear out somewhat what I have been talking about this morning.

Acting Chairman KING. Will you do that?

Mr. BASH. The memorandum—the first page.

Mr. FELLER (reading from "Exhibit No. 1447"):

> Without the Association and its agreements abroad, this would have the old, familiar and inevitable result of driving export prices down again to unprofitable levels. The companies who are permanently engaged in the export trade and who have enjoyed the larger shares of this business, are the ones most interested in maintaining prices, because they stand to lose most by their decline. On the other hand, most of the newcomers, the "have nots", are interested in raiding the export market until the price becomes unattractive and then withdrawing. Some of these newcomers have resolved to fight their way into the company of the "haves", and remain in the export business permanently.
>
> The result has been repeated demands by the "have nots" for increases in quota, at the expense of the "haves". Naturally the "haves" have resisted this encroachment, in some cases leaving no alternative but an open violation of the Association rules when the contenders persist in obtaining satisfaction of their demands.

The question that arises in my mind, on the basis of this, is whether or not, Mr. Schroeder, you weren't setting forth two reasons for coming to this agreement. One is the reason which Mr. Bash has stated several times, and which is referred to in these two paragraphs, namely, the fact that by this struggle for markets the export prices would be driven down to unprofitable levels; and whether, in the next paragraph, the first paragraph on the second page, you were not telling, or were not intending to tell, the members of the association that unless they reached such an agreement, the result would be an influx of low-priced foreign steel in the United States.

Were you, in effect, saying that?

Mr. SCHROEDER. That is what I said, sir; that was my opinion at the time.

Acting Chairman KING. We will take a recess until 2:30.

(Whereupon, at 12:35 p. m., a recess was taken until 2:30 o'clock of the same day.)

AFTERNOON SESSION

(The hearing was resumed at 2:40 p. m., upon the expiration of the recess, Representative Clyde C. Williams presiding.)

Acting Chairman WILLIAMS. The committee may be in order. Proceed, Mr. Feller.

Mr. BASH. Mr. Chairman, may I try to clear up something that I said this morning which I am not sure that the committee understood, and that was the question raised by Mr. Feller, that if we did

not have an association during the year 1938, if the exports from the United States wouldn't have been larger than they were.

It is my feeling that had we not had an association, our shipments would not have been as large as they were, because we would have had unrestricted competition from Europe. I wanted to make sure that that was fully appreciated.

Mr. FELLER. Mr. Chairman, at the moment of adjournment this morning we had been considering part of the draft report which Mr. Schroeder had drawn up in April of 1938, and in particular that portion of the draft report [1] which said that:

> More imminent is the danger that the British and Continental parties will renounce the present tentative agreements unless they are made more satisfactorily effective. Such renunciation would inevitably be followed by an influx of low priced foreign steel in domestic markets.

If I recall correctly, at the very conclusion of the hearings this morning Mr. Schroeder stated that that was his opinion at that time. That is correct, is it not?

(Mr. Schroeder nodded in the affirmative.)

Mr. FELLER. Mr. Bash, sometime ago a responsible business analysis group, Poor's, published a survey called "Poor's Industry and Investment Survey on the Iron and Steel Industry." That was published April 12, 1939, and in that survey occurs the following:

> For the first time since created under the authorization of the Webb-Pomerene Act (1918) the Steel Exporters' Association of America, including 80 per cent to 90 per cent of domestic industry, has arrived at an understanding with European producers respecting shipments and prices. Following a series of conferences between the International Steel Cartel and the Association, it was announced late in May, 1938, that agreements had been reached. Whereas "dumping" of American steel products in Europe at prices as much as $10 a ton below prevailing markets was the alleged reason for the cartel's negotiations with the American producers, the latter in turn were apprehensive lest there be a recurrence of excessive imports into the United States such as those which hurt profits and employment here just prior to the pick-up in demand during 1935 and 1936. Thus the agreement, by putting both imports from and exports to Europe upon a quota basis, aids in the stabilization of prices in both markets.

I take it from what you have previously said, Mr. Bash, that is a misapprehension.

Mr. BASH. I presume so.

Mr. FELLER. Will you give us some idea as to how a responsible business analysis organization of this kind would get such a misapprehension?

Mr. BASH. Frankly, I don't know.

Mr. FELLER. Are you aware that others have had the same apprehension or misapprehension?

Mr. BASH. No; I am not.

Mr. FELLER. Mr. Schroeder, you had an apprehension when you wrote this report in April 1938, that the possibility of an influx of foreign steel had something to do with this question. Were you aware whether others had any such apprehension?

Mr. SCHROEDER. None at all.

Mr. FELLER. You said you had formed this opinion on the basis of your experience.

Mr. SCHROEDER. Yes.

Mr. FELLER. Mr. Schroeder, continuing on your report of April 1938, your draft of report, on the last page, page 3, the third para-

[1] "Exhibit No. 1447," appendix, p. 11018.

graph from the last begins as follows [reading from "Exhibit No. 1447"]:

> Beyond this the American party must negotiate for freedom from responsibility to the heavy steel group for shipments by American outsiders during whatever period of time may be required to negotiate with these outsiders, and to obtain their participation in the agreement either as active or as associate members. With present outsider activity we cannot be responsible for them. When all outsiders have joined up there will be no problem. In the meantime it is suggested that much the same clause be employed as at present under the tin plate agreement mentioned in the attached report. Furthermore, with a view to diminishing the opportunities offered to outsiders, it is recommended that responsible brokers, jobbers or export merchants be licensed by commission agreements with the association to deal exclusively with its members. License would be offered upon nomination by any member. At present the brokers seek connection with outsiders and contrive to defeat the purposes of the Association. It is hoped that the licensing plan will ensure the cooperation of the worth while merchants.

Had you discussed this proposal previous to writing this report with other of the managers of the association, this proposal about licensing?

Mr. SCHROEDER. Which paragraph?

Mr. FELLER. Next to the last paragraph—proposal about licensing by commission agreements.

Mr. SCHROEDER. No.

Mr. FELLER. Had any such proposal been discussed?

Mr. SCHROEDER. Not in connection with any of this that I know of. It is a practice, I believe, followed quite extensively abroad, particularly in England. It occurred to me as a good plan in our country.

Mr. HENDERSON. That is the way the English did take control over the export situation.

Mr. SCHROEDER. Yes.

Mr. FELLER. Mr. Bash, has the Association contemplated such proposal?

Mr. BASH. It was discussed after receipt of Mr. Schroeder's memorandum and we decided, or rather came to the conclusion, that we were not in agreement with the suggestion.

Mr. FELLER. Was any suggestion made that the law might interfere with this?

Mr. BASH. I don't remember whether any was or not, but from our method of doing business this was something entirely foreign, and insofar as brokers and merchants are concerned, insofar as the sale of steel products manufactured in America, they do not enter into the picture anywhere near the extent that they enter into the picture in European countries. I won't say all, but a great portion. The major portion of the steel exported in this country is sold directly by the mills interested.

I would like to add one thing to try to give you a picture as to why the Europeans employ brokers and merchants. Aside from a few large steel interests there are a number, particularly in England, of very small producers who may make one product or they may make two products. Naturally they can't afford to open an office or appoint agents to represent them all over the world; it would be too expensive. Therefore they utilize the merchant to do their business for them.

Mr. FELLER. The point of interest here was a suggestion that exclusive licenses be put into effect with a view to diminishing the opportunities offered to outsiders. Has your association discussed

any means with a view to diminishing opportunities offered to outsiders?

Mr. BASH. Well, I can't answer that; I think, probably the way you want me to answer it, but very briefly, you must remember that first of all the members of the S. E. A., Steel Export Association, assumed a responsibility.

Mr. FELLER. Yes.

Mr. BASH. For the entire exports from the United States. In fact, the quotas granted to United States manufacturers were based on that. We assumed that responsibility, purely and simply—I will use an example: Let's assume that our percentage, whatever it was, was equivalent to 50,000 tons in a particular product. Under the aegis of the association and the international agreement, if there was a nonmember there was nothing to prevent him from selling that entire allotment which the members of the association were responsible for, in addition to whatever they sold. We weren't anxious to assume that responsibility, naturally, but the foreigners would not make an agreement with us unless we assumed the responsibility the same as they did.

Now under those circumstances, what it amounted to was that the nonmembers, as I see it, were living under the umbrella of the association, trying to have their cake and eat it at the same time.

Mr. FELLER. Consequently, there was a—shall I say temptation—on the part of the members of the association to attempt in some way to influence the action of the nonmembers. I don't say they yielded to that temptation but such a temptation did exist, did it not?

Mr. BASH. What we did, I don't see anything wrong with it at all, and that was to ask the foreigner, our partner in this association, to take the share of business which his quota warranted him to take, so as to relieve us of any penalty that might be created by a nonmember, to any appreciable extent. If it was a small amount we weren't going to worry particularly about it.

Mr. FELLER. How did you ask the foreigner to take that?

Mr. BASH. I think we told him, requested him——

Mr. FELLER (interposing). You mean you said to him, "You can go above your quota."

Mr. BASH. No, no, no; you misinterpret it. We said to the foreigner:

> Now, here, we are up to our quota based on our shipments as well as the nonmembers's shipments. You are not taking your share of the business, otherwise we wouldn't be in excess. We want you to take your share of the business, otherwise we want to be relieved of the responsibility.

Mr. FELLER. I don't quite know what you mean by "take." Do you mean price-wise?

Mr. BASH. Go out in the market and get the tonnage and get the orders.

Mr. FELLER. In other words, you would say to the foreigner, "We relieve you from the obligation of quoting those prices that are provided for in the agreement."

Mr. BASH. Oh, he has a perfect right when he is in deficit to name a price lower than our price. We conversely have the same right. There may be times when there is a deficit and excess position. If it amounts to anything appreciable we will protect the policy, or if we are in deficit the foreigner will protect us if we are in deficit.

Mr. HENDERSON. You mean by going out and getting tonnage?

Mr. BASH. Yes; and even more than that, Mr. Henderson; we would quote a higher price in order to divert tonnage to him.

Mr. HENDERSON. You would quote a price higher than the agreed price in order to divert that tonnage?

Mr. BASH. Either that or he would quote a lower price.

In other words, we had made an obligation, they had made an obligation, we were trying at all times to see to it that each one of us got what we were supposed to get.

Mr. HENDERSON. That applied to outsiders also.

Mr. BASH. No; the nonmember was no part of our association. We had——

Mr. HENDERSON (interposing). I mean as far as handling outsiders was concerned, those who were living under your umbrella.

Mr. BASH. Yes.

Mr. FELLER. Mr. Bash, I hand you a letter dated November 14, 1938, on the letterhead of Bethlehem Steel Export Corporation, S. M. Bash, vice president, addressed to Mr. John Outwater, Steel Export Association of America, and signed C. E. Masters, assistant to the vice president. Will you identify that, please?

Mr. BASH. Yes; that is the letter.

Mr. FELLER. I offer this for the record.

Acting Chairman WILLIAMS. It may be received.

(The letter referred to was marked "Exhibit No. 1448," and is included in the appendix on p. 11020.)

Mr. FELLER. Who is Mr. John Outwater?

Mr. BASH. He was in charge of the Steel Export Association at that time in New York.

Mr. FELLER. I shall go on reading the letter:

After consultation with U. S. Steel Products Company, we would like you to send the following letter over your signature to Mr. Todd in tomorrow's mail.

Who is Mr. Todd?

Mr. BASH. Mr. Todd was the European representative of the Steel Export Association of America, located in London.

Mr. FELLER (reading further from "Exhibit No. 1448"):

Ship Steel and Ordinary Plates and Shapes for Scandinavia and Holland

You will recall the conservation after dinner on the night you sailed which resolved itself into the fact that we are in the Cartel until 1940 with definite quotas and that it is up to us to live within these quotas. We are satisfied to do this but, frankly, the situation as regards the products for the territories mentioned in the caption of this letter has us baffled. Today, one of our larger members has received word from their London office that a large British merchant firm informs them they have been attempting to secure firm offers for ship plates for Holland on the basis of $1.96 c. i. f. but without success, they being informed that lower prices are being named by other merchants for plates from Worth and Central.

Worth and Central are American firms who are non-members?

Mr. BASH. Yes.

Mr. FELLER. They were non-members of the Association?

Mr. BASH. They were non-members.

QUESTION OF ELIMINATING THE AMERICAN NON-MEMBER

Mr. FELLER (reading further from "Exhibit No. 1448"):

As you know we are presently asked to maintain £11.0.0, which at $4.73 exchange is about $2.32 per 100 c. i. f., and the Continentals claim they have the

situation under control by taking not lower than £9.15.0, which at the same exchange rate equals $2.06, and they claim to have taken considerable tonnage at higher prices.

Frankly, several of our members have received reports from many sources to the effect that the Continental prices at which business is reported to have been closed are subject to rebates of varying amounts. We have no quarrel with the Continentals or the British in quoting lower than £9.15.0 by means of the rebate system (as this is what we have been asking them to do for some time to eliminate the American outsider) if they have some real reason for not wanting a price lower than £9.15.0 to become *officially* known but, as partners, we consider that we are entitled to know what they are *actually* doing, because if what they are actually doing is sufficiently low actually to eliminate the American outsider, then we can properly judge the reports our members are constantly receiving as to prices being quoted by the American outsiders and whether or not they are securing any real volume of business. We would be inclined to stay off the ship steel business for the Scandinavian and Holland markets (except possibly at such times as we are in deficit—and then only to the extent of making up our deficit) so long as we know that we are not being denied the opportunity of taking business which is being lost by the Cartel to the Philadelphia district mills. Furthermore, as you well know, the sooner these mills are eliminated from taking business the better our chances will be of bringing them under control in our own group.

There is also the thought that after the trial period some of our members are not going to be content to remain in the American Party if it ultimately develops that mills outside the party can secure more tonnage than group members.

This is one of our most aggravating and pressing problems and we are wondering if you cannot discuss it frankly with Sir Andrew Duncan toward the end of clarifying the situation once and for all.

Mr. Bash, had your company been asking the continentals or the British to quote lower prices by means of the rebate system?

Mr. BASH. No; by the rebate system?—we didn't care how they accomplished it.

Mr. FELLER. You didn't care how they accomplished what?

Mr. BASH. A lower price, as long as we know what they are doing.

Mr. FELLER. And you wanted them to quote the lower price so that they should eliminate the American outsider.

Mr. BASH. I don't know as though I would put it that way. I would put it in this manner, Mr. Feller. We had assumed a responsibility for the entire export shipments of the products covered by these agreements. That responsibility carried with it quite heavy penalties. To give you an example, it was entirely possible that the nonmembers could ship, could sell and ship, the entire amount which had been allocated to America purely and simply under the umbrella which was actually held for them, and based on that, all we were asking, and what we were asking, was that the foreigners carry through their part of the obligation or release us from the responsibility of penalties.

I might say that the foreigners did not comply with our requests to the extent that we asked them, which brought about very large sales on the part of nonmembers and created a very large penalty in the way of money, as I recall it, and this is not singling out any particular product as a base, but I think after the end of the first 6 months, due to the foreigners not maintaining a price sufficient to maintain their quota position, the Steel Export Association owed in the way of penalties somewhere in the neighborhood of a million dollars.

Mr. HENDERSON. As I take it, you felt you couldn't keep your part of the obligation unless they helped you out with the outsider.

Mr. BASH. Absolutely, Mr. Henderson. If that condition persisted, what is meant was the break-down of the association at least in those products.

Mr. HENDERSON. How do you reconcile that with the language in the Webb-Pomerene Act that no part of your action shall be taken in restraint of the export trade of a competitor, because it is very clear that this action is definitely aimed at the export business of a competitor, an outsider?

Mr. BASH. No; I don't think so. He had perfect liberty to do just as he liked insofar as competition was concerned. If he was outside of the association we would have still been just as hot after him as we were in the association.

Mr. HENDERSON. That's it; you were hot after him.

Mr. BASH. We were trying to maintain our position. Now, this got to a point where the outsiders or the nonmembers, on some products, based on Government figures and the reports to the Association, were shipping more than the members.

Mr. HENDERSON. That may be true. It may be true, but your testimony here certainly indicates that you wanted some help from the cartel members on restraining the export trade of competitors, and that is specifically prohibited by the language of the Webb-Pomerene Act. I can understand very definitely on the mechanics of running it under these difficulties that you can't handle a situation if the outsiders get the market. Every cartel, every arrangement that has broken down has usually broken down, barring war and other things, because of outsiders, but I don't know how you can reconcile it with that specific language in the act.

Mr. BASH. The net result of it was, we far from restrained them. It was just the opposite. They grew up and grew up like a mushroom.

Mr. FELLER. Aside from the question of what the foreigners actually did, I understand from this letter that your company was asking foreigners to cut prices so as to drive small American concerns out of the European market. Isn't that the net effect of what you were asking?

Mr. BASH. No.

Mr. FELLER. Well, what does the word "elimination" mean? Your answer was that the Europeans didn't want to do that, and I say, "Good for them."

Mr. BASH. I don't say that the Europeans——

Mr. AVILDSEN (interposing). I understand Mr. Bash said that they offered to the foreign cartel to let these American firms sell that way if they would relieve them of the penalties.

Mr. BASH. I will go further than that and say that that was an actual happening. We were relieved of responsibility.

Mr. AVILDSEN. In other words, instead of dropping their prices, they relieved you of responsibility?

Mr. BASH. We were relieved of entire responsibility as far as nonmembers were concerned. The net result was that the prices dropped.

Mr. O'CONNELL. There is nothing about that in this letter.

Mr. BASH. No.

Mr. O'CONNELL. So far as this letter is concerned, and even admitting you were unsuccessful in what you hoped to accomplish, is it

not a fair statement that what you are proposing is that your European partners take such actions as would be necessary to eliminate American producers who were not members of your organization?

Mr. BASH. I don't believe under any circumstances any time we can eliminate anybody.

Mr. O'CONNELL. You can try. I address myself rather to what you hoped to accomplish, rather than to the results.

Mr. BASH. We were asking the Europeans to either take their share of the business, and I don't think you can divorce a letter from all of the other circumstances and conditions that surround it; this is just one cold part of the whole situation, and finally the situation got so unbearable that we were relieved of the entire responsibility for the American nonmembers.

Mr. AVILDSEN. In other words, isn't it true that you didn't care how much the small companies sold in the small markets or at what price, as long as you didn't have to pay penalties to the cartel?

Mr. BASH. If we didn't have to pay penalties to the cartel, then we could defend ourselves in open competition, and that is what we asked for.

Mr. O'CONNELL. It seems to me you are complicating the situation. At the time the letter was written you were obligated to pay penalties to the extent that you exceeded the quota to the American markets.

Mr. BASH. Quite so, and this situation became even more aggravated.

Mr. O'CONNELL. You knew this situation: the outsiders entered into the arrangement and you agreed to pay penalties if the American producers exceeded their quota. At the time this letter was written you attempted to get cooperation from the European partners to eliminate American producers from the trade who were not members of your association. Isn't that a fair situation?

Mr. BASH. Somewhat, but isn't it reasonable—I will put it another way. Should we break up an association which, as far as I am concerned, was most beneficial to American steel production because we have some people who won't come in and, instead, want to hang on to our coattails and live under the aegis of it?

Mr. O'CONNELL. It is quite obvious, of course, that I will not answer that question, but I do suggest you read the provisions of the Webb-Pomerene Act which, as I understand it, is to prevent the thing happening which you were trying to accomplish in this case. It isn't a question of what would be reasonable for you to do, but what you are permitted to do under the law.

Mr. BASH. Absolutely, and we had no intention of eliminating them 100 percent, you can't.

Mr. O'CONNELL. That is the effect, it has nothing to do with what you hoped to do.

Mr. BASH. If we had said "compete" we would have come to the same result.

Mr. O'CONNELL. Change what word?

Mr. BASH. Instead of using the word "eliminate" be allowed to be competitive. In essence that would be what it amounted to.

Mr. O'CONNELL. You say "we have been asking them to do this for sometime, to eliminate the American outsider." It seems to me those words mean what they say and I don't see how you can make it

different by substituting the word "competition." The purpose, as I understand it, was to either force the so-called outsiders into your association, or to eliminate them from the foreign business.

Mr. BASH. There is no way of forcing them. We did all the talking we possibly knew how to do to try to convince them that it was not only to their benefit, but to the country as a whole for them to come along.

Mr. O'CONNELL. Having talked to them and been unsuccessful, this is another method of attempting to bring them into the association, is it not, or to eliminate them from the trade? It has nothing to do at this point with how effective you were, looking at it today. I am interested in what you hoped to accomplish and what you actually did then.

Mr. BASH. I would say this, that there was no intention or any expectation that at any time we could eliminate anybody from competing in the steel industry or the export trade.

Mr. HENDERSON. Mr. Bash, I would like to read you an item from the *New York Times* of December 11, 1937. It is a wireless to the *New York Times* and the date line is Berlin:

> The net result of the session of the European Iron and Steel Cartel with representatives of the United States Iron and Steel Industry at Dusseldorf this week appears to have been reduction of the European price of some highly specialized plate and sheet iron products in order to meet American competition and discourage additional American concerns from entering the export market.

Does that adequately express what did take place?

Mr. BASH. I wasn't there, sir.

Mr. HENDERSON. Were representatives of the S. E. A.[1]?

Mr. BASH. I don't know whether they were or not. I don't believe they were. You say in December?

Mr. HENDERSON. This was in December 1937.

Mr. BASH. I question that because at that time we were in London—not we, I was in London at which time we were arranging or agreeing to report shipments in the case of some products from December 1, 1937, and the others January 31.

Mr. HENDERSON. Do you want me to understand that no member of the Export Association was there at that particular time?

Mr. BASH. I don't want you to understand it because I don't know whether they were or not.

Mr. HENDERSON. Were you representing the Export Association?

Mr. BASH. No; at that time I went to London on company business; I did not go over on steel.

Mr. HENDERSON. On Bethlehem business?

Mr. BASH. Yes.

Mr. HENDERSON. Who was representing the Association?

Mr. BASH. There was no one there at the time representing, other than the man of the local office.

Mr. HENDERSON. You mean you had two people at the London office?

Mr. BASH. There was a permanent London office of the Steel Export Association.

Mr. HENDERSON. Do you know whether their members were present?

[1] Steel Export Association.

Mr. BASH. I can't tell you yes or no.

Mr. HENDERSON. Do you know, Mr. Schroeder?

Mr. SCHROEDER. I don't know.

Mr. HENDERSON. The whole reporting of the cartel meeting constantly iterated that the American concerns were there negotiating at the French meeting—at the Paris meeting this was—and it indicated that United States and Bethlehem were both in attendance at that time.

Mr. BASH. I can answer for myself that I was not in Dusseldorf in December 1937.

Mr. HENDERSON. All right. Now in February 1937 when the negotiations first started, were you at the meeting with the cartel people?

Mr. BASH. Yes; in London in February, I and another representative of the association.

Mr. HENDERSEN. And you were negotiating on the basis of representating the S. E. A.?

Mr. BASH. That is right.

Mr. HENDERSON. But as far as you know at this period nobody was representing——

Mr. BASH (interposing). They might have been, I can't tell you one way or the other whether they were or weren't.

Mr. AVILDSEN. Mr. Bash, can you tell us something about the amount of export business which was done by these companies prior to the time when the price of these commodities got very high? Did they substantially increase their proportionate amount?

Mr. BASH. Many hundreds percent.

Mr. AVILDSEN. They were not in the export market to any extent when the price was low, but when the price rose they came in.

Mr. BASH. They were "inners" and "outers", as we called them. When the domestic business was poor they were in the export trade.

Mr. AVILDSEN. Regardless of the export price?

Mr. BASH. No; if the price was worthwhile. When the domestic business was good they practically disappeared.

Mr. AVILDSEN. So it couldn't be said they depended on export business for their existence.

Mr. BASH. On the contrary. Their participation in the export business, in comparison with some other companies who established the exports from the United States, the basis on which our quotas were given to us——

Mr. AVILDSEN (interposing). As long as the cartel's price was rather low they did not come in and disturb the situation or cause you to pay any penalties; it was only when the cartel price rose.

Mr. BASH. That is right, and of course under the cartels the prices were good, otherwise there wouldn't be any good reason to have a cartel. I think Mr. Schroeder said something in his memorandum this morning about raiding the export markets when prices were attractive.

Mr. FELLER. Mr. Bash, as I understand it, you had, of your own free will, assumed this responsibility in your negotiations with the foreign cartel.

Mr. BASH. I wouldn't say of our own free will, we tried to avoid it.

Mr. FELLER. The American outsiders bore no responsibility for the one you undertook under that obligation, they weren't parties under the agreement.

Mr. BASH. Not the slightest responsibility did they assume or bear.

Mr. FELLER. After undertaking this obligation on the basis of your negotiation with the foreign cartel, you found the American outsiders were a disturbing influence and in order to relieve yourself of that obligation you asked the foreigners to go ahead and eliminate them from the export market. Isn't that what you did?

Mr. BASH. Mr. Feller, you must bear in mind that when you enter into a cartel arrangement, unless there is a definite, positive understanding that the cartel is going to be competitive, all you are doing is holding an umbrella for the people who won't come in for some reason or other.

Mr. FELLER. Exactly, and therefore the question really arises—and I think the fundamental question here is if the provision of the Webb-Pomerene Act, to the effect that the export business of outsiders should not be restricted, is to be adhered to, whether it is possible to have an export association at all in this situation. Don't you think that is a fundamental question?

Mr. BASH. We think it is an excellent thing for the country to be allowed to make arrangements for export, as they have been made, and should a few companies who, under competitive conditions, are not seriously interested in export business, should they be allowed to disrupt the steel export trade of this country?

Mr. FELLER. The Congress has said that you can't stop them; the Congress has said you can't interfere with the export trade of any outsiders.

Mr. BASH. Well that is just about the result that happened. We couldn't interfere and I guess we were the losers.

Mr. FELLER. Didn't you try to interfere here?

Mr. BASH. We tried to get the foreigners to take their share of the business, definitely.

Mr. FELLER. You tried to get them to cut prices and eliminate American outsiders.

Mr. BASH. Wait a minute; no, sir; I object—to eliminate our responsibility. We were not allowed to defend ourselves. And finally, we did get relief of that responsibility because we couldn't continue under that situation.

Mr. FELLER. And furthermore, as you said, the sooner these mills are eliminated from taking business, the better our chances will be of bringing them under control in our own group. That was another purpose?

Mr. BASH. I didn't say that.

Mr. AVILDSEN. There wouldn't be any purpose in joining your cartel if they could shoot under your umbrella.

Mr. BASH. Right; and the net result would have been that if this thing had continued, if we weren't allowed to be relieved of the responsibility and we went abroad and said to the people on the other side, "Unless you relieve us from this responsibility we are withdrawing from the association because we cannot live under those conditions and.

assume responsibility to the extent that a man who has been a very small participant will grow under it," to the extent that he is getting more than the members that are in the association.

Mr. AVILDESEN. Your other American members would have withdrawn from the American association?

Mr. BASH. Absolutely.

Mr. AVILDSEN. And the whole cartel would have gone down?

Mr. BASH. Yes.

Mr. HENDERSON. That was a significant item in the N. R. A. Code as far as it concened allocaions and quotas in the price arrangement. That was the difficulty with the 10 percent.

Mr. Bash, let me ask you this: The foreign participants in these arrangements had many more sanctions by which they could treat with outsiders, did they not?

Mr. BASH. I believe their Government allows them to do many, many things which we wouldn't think of doing. They allow them to coerce and to do—well, I won't say almost anything—a great number of things.

Mr. HENDERSON. That has been the trend in the heavy industry cartels abroad.

Mr. BASH. In a lot of industries too.

Mr. HENDERSON. The English, for example, have gone into this import licensing scheme. It makes no difference what price is quoted by the Belgian-Luxembourg group, under the existing arrangements, even with the existing tariff, they couldn't get in if the importer didn't have a license, could they?

Mr. BASH. Yes; and I will give you an example of how far it went in England. We will take the tin-plate manufacturers. A great number of them, as you undoubtedly know, are small units, two mills, four mills, six mills, or maybe eight mills, located in various parts of Wales. The town pretty nearly exists on them. They are antiquated; they have been there for generations; generally run by a family, and naturally they must resort to the use of merchants for the sale of their products. A number of those merchants were licensed and at any time that they broke the price or violated an agreement they were taken off the list and were not allowed to sell for those mills.

That is the extent that they went to in order to control their industry in an effort to maintain a reasonable price.

Mr. HENDERSON. Naturally in these other countries, too, the government is a substantial factor, is it not?

Mr. BASH. Absolutely.

Mr. HENDERSON. Sometimes they are partners, are they not?

Mr. BASH. They can go to the government for help in any number of lines from the standpoint of—well, you know what a lot of them do insofar as subsidies are concerned.

Mr. HENDERSON. In some of these countries the government is in the cartel, is it not?

Mr. BASH. Yes; in the case of Britain they have the British Iron and Steel Federation, which is Government sponsored.

Mr. HENDERSON. But in some part the German industry is owned by the German Government.

Mr. BASH. That is right. In fact, they are erecting at the present time a new steel works which is owned, I believe, wholly by the Government.

Mr. HENDERSON. And in that sense the Government does get a chance to review the considerations as to whether they will or will not apply sanctions to outsiders and as to whether the price is suited to its own economic policy at the moment.

Mr. BASH. The steel industries of various countries can go to the Government for assistance, lay their case before them, and look at it not from the individual companies, but from the country as a whole.

Mr. HENDERSON. That as true certainly in what the British did in arranging the tariff for the Imports Advisory Committee.

Mr. BASH. Exactly.

Mr. HENDERSON. They worked it up to 33 percent and then back to 20 percent after they had negotiated a satisfactory agreement with the cartel.

Mr. BASH. Yes; and of course you know, notwithstanding the tariffs, they have an agreement with the continentals in which a certain amount of tonnage is allowed to England each year. As I recall it, I think it is a half million tons, which is part of the over-all picture of the cartel system.

Mr. HENDERSON. You have decided difficulty, so far as the American structure of laws is concerned, in trying to work out an arrangement with the international cartel, do you not?

Mr. BASH. Yes.

Mr. HENDERSON. It gets down pretty much to the standards of operation and regulation of these cartels, does it not, Mr. Bash?

Mr. BASH. Well, personally I thought that the Webb-Pomerene Act covered it for us.

Mr. AVILDSEN. Do you think that act should be modified or changed?

Mr. BASH. We are perfectly satisfied the way it operates now.

Mr. HENDERSON. I think the substance of today's testimony would indicate that there is only a minimum of public protection in this difficult undertaking. You are likely to get either short-run or long-run considerations. They are likely to be unsuited, as Mr. Feller points out, to the particular economic trend in the country. In other words, in 1938 so far as the use of our facilities in this country toward giving employment was concerned, regardless of other considerations, the outsiders were acting more in the national interest than the members of the S. E. A.

Mr. BASH. I think I mentioned before you came in, Mr. Henderson, one point that I wanted to clear if it wasn't fully understood, and that was Mr. Feller's question as to whether or not we, that is the American steel industry, would have secured more business if there had not been a cartel in 1938. My answer to that is that I think we would have had less for the simple reason that we would have European competition, as I have mentioned quite a number of times, of the severest form, so instead of having more without a cartel I think we would have had less without a cartel.

Mr. HENDERSON. Well, that is what I am indicating. Under this arrangement you are the determinators, you are the judges, of the long-run and short-run consequences and you are undoubtedly influenced by what is good for the dominant corporations in that association. The law as it is set up today says it just can't happen here. It just can't happen that this kind of an arrangement should interfere with the freedom of action of those who do not voluntarily go

into the cartel, and the law was certainly designed to prevent compulsion. It was certainly intended to give the outsiders the same measure of protection as the Sherman Act gives competitors in the domestic trade.

Mr. BASH. Would you say that it interferes any more with them under this situation in the cartel than it would in open competition? It is still competition.

Mr. HENDERSON. A different brand and variety, and it runs entirely contra to the commonly accepted ideas of competition upon which our laws are based.

Mr. BASH. Isn't competition the right to name any price you so desire?

Mr. HENDERSON. That is one element of it, yes; but if this action you suggested were followed you would have prevented an individual from getting that business, by utilizing the superpower of the organization of all the important steel companies acting in a unitary capacity. There would be a small producer against the whole world of steel producers; that is what he would be up against.

In other words, if you follow the line down, that outsider would never get any business, no matter what price he quoted.

Mr. AVILDSEN. He would get his permitted amount. He is offered to come into the cartel. He is given a chance to come in.

Mr. HENDERSON. But the essence of the Webb-Pomerene Act is voluntary association.

Mr. AVILDSEN. That is right; but you say he couldn't get any export business. He could; he could get his pro rata amount.

Mr. HENDERSON. Not if he stayed out. If you follow the logic implicit in this attempt to eliminate the American outsider, he wouldn't have freedom to quote a price that seems to him reasonable.

Mr. AVILDSEN. Oh, a reasonable price; now you are talking about another thing. He continued to quote but he didn't get into this fancy price that the cartel was trying to get.

Mr. HENDERSON. What Mr. Bash says is that it didn't work out that way; they didn't go that far. What they did was take the alternative of relieving the S. E. A. of responsibility for that quota.

Mr. BASH. And then we became competitive with him.

Mr. AVILDSEN. They didn't keep him out of the market.

Mr. O'CONNELL. They weren't successful in keeping him out of the market.

Mr. AVILDSEN. They didn't try to keep him out of the market.

Mr. HENDERSON. I think they did.

Mr. BASH. No, sir.

Mr. HENDERSON. I think the record running over a period of years, according to all the reports I have ever heard, is that there was a very definite attempt on the part of the cartel to cut prices to keep out the American outsider.

Mr. AVILDSEN. To keep him from getting more than his share of the business but not to keep him out.

Mr. HENDERSON. Well, a share of business presumably is determined in America by what you can get by price competition and managerial efforts.

Mr. REYNDERS. Wasn't the price actually made by these outsiders?

Mr. BASH. All we did was endeavor to follow them down but they were always a few jumps ahead of us.

Mr. REYNDERS. They were making the price?

Mr. BASH. Exactly. Of course, Mr. Henderson, I would like to point out that when we went across we made the best bargain we knew how to make, with every expectation and hope that we would have in this group, based on prior conversation, the people who were interested in any particular commodity. We did what we thought was worth while and in the benefit of the country as a whole. Now does it come to the point that we should renounce the deal or the agreements which we made?

Mr. HENDERSON. I think it doesn't fall in that particular way. I think there has been presented today, with the assistance of your comment and the material which has been introduced, a very important question, and that is not whether an organized American industry should participate in trying to get the best advantage it can in the export business, but what protections are needed to insure a fair deal. I think that is the most important question.

I would agree, as I think my remarks this morning would indicate, that there just isn't any hope for individual companies in export business to try to get a substantial tonnage when they are moving into a form of world business and particularly export business, that is under group control. But in order to get reconciliation I am suggesting that perhaps something more in the way of standards is needed so that you won't be driven to a temptation of trying to eliminate the outsiders.

Mr. BASH. In the first place, it is an impossibility to eliminate them.

Mr. HENDERSON. I am not so sure about that.

Mr. AVILDSEN. Were all these firms invited to come into the cartel?

Mr. BASH. Yes, sir; we consulted every one of them and invited them to come in. We even went to the extent of offering them quotas which we understood were considerably in excess of their proportionate business in free open competition.

Mr. FELLER. Why do you think they stayed out?

Mr. BASH. I can only imagine one thing—to get as much business as long as they could under the umbrella.

Mr. FELLER. Did any of them give you any other reason? Do you recall whether any company suggested that they were staying out on advice of counsel?

Mr. BASH. No; I don't.

Mr. HENDERSON. I gather from the essence of the letter covering the Earl of Dudley's visit, that the outsiders were invited to that meeting, were they not?

Mr. BASH. Well, at that time, yes; a portion of it, in the sheet agreement, the proposed sheet agreement all of the members, or rather all of the various concerns which we consulted were nonmembers; they were brought there with the hopes that they would be convinced of the desirability of coming in.

Mr. HENDERSON. All of the low-cost producers were there, I understand. Inland was there; Weirton was there.

Mr. BASH. I don't think there was anyone that we missed.

Mr. HENDERSON. You invited them to hear what the Earl of Dudley and the rest of them had to tell you?

Mr. BASH. Exactly.

Mr. HENDERSON. As to what they would like to have so far as a cartel arrangement is concerned.

Mr. BASH. And I think that that helped us somewhat in finally arriving at quotas.

Mr. HENDERSON. Of course, this letter and the visit of the Earl of Dudley came after the important meeting of the cartel to which I was referring. That was in November and December of 1937 and the Earl of Dudley and the other representatives were here in February of 1938.

Mr. BASH. 'Thirty-eight.

Mr. HENDERSON. So it was a very acute problem as to what these outsiders were doing so far as prices were concerned.

Mr. BASH. Of course if you will recall, they said at that meeting that they didn't think that U. S. Steel Products Co. and ourselves had carried along with our obligation.

Mr. HENDERSON. That is right. They were holding you to the obligation of getting in these fellows.

Mr. BASH. Exactly, and I think we convinced them at that time that we had made serious effort to do it.

Mr. HENDERSON. They evidently indicated that if you weren't able to do it they would take a part in it and, not only that, would probably invade the U. S. market.

Mr. BASH. No, sir.

Mr. HENDERSON. Well I prefer to think, Mr. Bash, that this statement—

> The inference was p'ain that such a low level of export prices would probably result in foreign makers attempting to share in the large and relatively high priced American domestic market—

meant something to the writer. He was a fairly well qualified observer at that time.

Mr. BASH. Let's analyze that. We'll take the Earl of Dudley, who is in the British industry. Certainly the Earl of Dudley couldn't possibly have been talking about the British industry because they had never had, as I understand it, any worth-while participation in this market.

Mr. HENDERSON. No; but that is just the point. It was the industry acting as a whole. I can recall about the middle of 1936, I think it was when the *Queen Mary* made its first trip, some of the steel fellows were coming over here and they said—they gave out a broadcast:

> We are coming over here and tell the American industry they ought to get nto the cartel. We are in the water and the water is fine, they ought to get into it also.

Mr. BASH. Yes, sir; that was the first visit.

Mr. HENDERSON. I think there was some very definite suggestion that if you people, you, Bethlehem and U. S., didn't take care of the situation, they would so far as the American market was concerned.

Mr. BASH. No; Mr. Henderson. We have and always have refused even to discuss anything with regard to the domestic market in any shape or form.

Mr. HENDERSON. I am not suggesting that you discussed it. I am saying what the representatives of the cartel told you and Weir and all the rest of the producers who were present at the meeting.

Mr. BASH. No; I don't think so. I think the reason for that meeting was the fact that they did not feel that the export people were putting enough energy in forming the agreement, which proposed agreement we had signed in February. In fact, they asked to meet the presidents of our various companies with the idea of trying to coax them—I won't say coax them, but with the idea of having them get behind us and push this thing through.

Mr. HENDERSON I don't see any reason why you shouldn't use the the word "coax." When you want to influence a desirable action, one desirable to you, you are at liberty to use all your power and persuasion. A lot of business is done that way.

Mr. BASH. I didn't avoid it for any particular reason except that the other was more expressive.

Mr. HENDERSON. What I think you are saying to me is that they were raising questions about U. S. and Bethlehem, they didn't feel they had shown enough energy.

Mr. BASH. Exactly.

Mr. HENDERSON. Do I take it from that they felt you could have gone into some agreement in order to get a participation in the export business and had become indifferent as to what the American producers would do?

Mr. BASH. No; it was to our interest to get them in because we had assumed responsibilities for them, so naturally if we had a quota of "X" amount and the people other than U. S. Steel and Bethlehem shipped all that tonnage, necessarily there wouldn't be any reason for us to continue an agreement. All we were doing was assuming responsibility and getting nothing out of it.

Mr. HENDERSON. As a matter of fact, if you went out in competition on costs, that is United States and Bethlehem as against the rest of the people named there, you probably would be at a decided disadvantage, particularly on hot- and cold-rolled sheet, wouldn't you?

Mr. BASH. Are you talking about as compared with the other American companies?

Mr. HENDERSON. I am talking as to United States and Bethlehem—the competition pricewise would be at a disadvantage.

Mr. BASH. I mean competition with whom?

Mr. HENDERSON. With Republic, Armco, Youngstown, Wheeling, Weirton, Great Lakes, J. & L.

Mr. BASH. I don't know why we should be at a disadvantage.

Mr. HENDERSON. On the matter of costs? Isn't it pretty generally understood they are lower-cost producers than the two large organizations?

Mr. BASH. I can't answer that, but I can only answer you in respect to the amount of business that has been done in the export trade, and I think without question that the major portion of it in years gone by has been done by U. S. and Bethlehem, in all products. There may be a few exceptions.

Mr. HENDERSON. Until recently, that was the reason for the threat, one of the reasons for trying to get them into line. That was one of the reasons for getting away from competition based on ignorance, the phrase you used this morning.

Mr. BASH. Right, but there was no question in my mind but what we would still have retained our position in the trade because we are in the business day in and day out.

Mr. HENDERSON. I said you would have been at a disadvantage costwise.

Mr. BASH. I can't answer you as far as costs are concerned.

Mr. AVILDSEN. Mr. Bash, are you familiar with any other export associations formed under this Webb-Pomerene Act in other commodities, as to whether they are operating successfully?

Mr. BASH. I can't answer. I know that there are a number of them. I am not familiar with them. I don't know how they operate.

Mr. AVILDSEN. You don't know whether there are others with 100-percent membership?

Mr. BASH. No; I don't.

Mr. FELLER. I should just like to ask one question, Mr. Bash. Mr. Bash, supposing in the domestic business the United States Steel Corporation and Bethlehem should publish a price on plates and shapes and these mills that are referred to here, Worth and Central, the Philadlephia district mills, should sell their plates and shapes in California at a price below your quoted price, do you think it would be proper for Bethlehem to ask United States Steel Corporation to cuts its price in California so as to eliminate Worth and Central from California business?

Mr. BASH. Mr. Feller, I don't know the first thing about the domestic trade. As I have said earlier this morning, my entire experience has been in export.

Mr. HENDERSON. Have you been representing Bethlehem very long?

Mr. BASH. I think since—do you mean in the Association?

Mr. HENDERSON. Well, in the foreign business.

Mr. BASH. Well, I have been with Bethlehem in the foreign end since 1922.

Mr. HENDERSON. Have you represented them in connection with the Rail Cartel?

Mr. BASH. No, sir; I did not.

Mr. HENDERSON. Who did? Did Mr. Schwab usually attend to those things himself?

Mr. BASH. Mr. who?

Mr. HENDERSON. Mr. Schwab.

Mr. BASH. No; I think possibly if there was representation it was by my predecessor, Mr. Stewart. I don't know whether he represented them or not.

Mr. HENDERSON. You people weren't in the tube market, then?

Mr. BASH. Yes.

Mr. HENDERSON. Your predecessor probably represented you.

Mr. BASH. Yes. Originally when the tube cartel was formed, We had just about begun the manufacture of pipe. We entered into the tube cartel with a quota which was to become effective if and when we entered the export trade on tubular products. We didn't enter it, as I recall it, for possibly a year after we began to manufacture tube.

Mr. HENDERSON. In that connection——

Mr. BASH (interposing). You of course understand that was after the Association was formed in '28.

Mr. HENDERSON. Yes; that is as far as tubular goods were concerned.

Mr. BASH. Yes.

Mr. HENDERSON. You people were participating to some extent in the rail cartel before that.

Mr. BASH. Not to my knowledge.

Mr. HENDERSON. It was longer ago than that. I see someone in the back row shaking his head.

Mr. BASH. I can't answer you insofar as that is concerned. I don't know when that was started.

(Senator King assumed the Chair.)

Mr. HENDERSON. I am not trying to do any pinning down, but I am trying to get at the fact that your experience has been in markets where conditions of trade are entirely different from the domestic steel business.

Mr. BASH. My entire history.

Mr. HENDERSON. And over a period of years, as we agreed before, European trade has been going toward cartel arrangements with the fixing of prices, allocation of quotas, reservation of markets, and the like.

Mr. BASH. I think it is growing more all the time.

Mr. HENDERSON. My observation is that the steel testimony has indicated possibly we are tending a bit toward that in our efforts. There seems to be an inevitability of trend that way.

Mr. BASH. I think if we expect even to maintain our position we must do that.

Mr. HENDERSON. In the foreign trade?

Mr. BASH. In the foreign trade.

Mr. HENDERSON. I was speaking of the domestic.

Acting Chairman KING. I want to apologize to the members of the committee for not being here. I am a member of the District Committee, and we had to lay a foundation for the Jefferson Memorial.

Mr. FELLER. Mr. Chairman, I myself have no further questions, but if I recall, I just interrupted one of the members of the committee in a question.

Mr. O'CONNELL. Mr. Bash, would it be fair to say that the long run success of a cartel organization such as the one you represent depends upon participation in it by substantially all producers in a particular field?

Mr. BASH. To get the utmost out of it; yes.

Mr. O'CONNELL. In other words, to be most effective your organization would have to be composed of all producers.

Mr. BASH. I wouldn't say all producers.

Mr. O'CONNELL. All substantial producers.

Mr. BASH. All those substantial producers that are interested in export trade. There are some substantial producers that are not interested in export trade, I assume, evidenced by the fact that we never encounter or haven't encountered their competition very seriously.

Mr. O'CONNELL. But the success of the efforts of your organization particularly as related to dealing with international organizations has a direct relationship to the extent to which you can have 100-percent participation at home.

Mr. BASH. The nearer we get to 100 percent the more we are going to get out of it.

Mr. O'Connell. As I understand it the Webb-Pomerene Act would prevent that 100-percent participation except on a purely voluntary basis on the part of the home people.

Mr. Bash. That is correct.

Mr. O'Connell. In view of that fact and since you are so convinced that it is essential that we meet the foreign situation as we find it, would you be in favor of legislation which would require participation in a cartel organization such as the one you represent?

Mr. Bash. No, sir; I hardly know how to answer that.

Mr. O'Connell. It seems to me that would almost follow.

Mr. Bash. Well, I don't think you can force anyone.

Mr. O'Connell. You mean that your attempts to force them have tended to make you believe that you can't do it?

Mr. Bash. Well, shall we use the word "force" or "coerce"?

Mr. O'Connell. "Coerce" is all right with me. "Coerce" would suit me all right.

Mr. Bash. We have done our utmost to get them to come in. As I said before we went to the extent of offering them appreciably more than they had done in open competition. We not only asked them to come in, we pleaded with them to come in.

Mr. Avildsen. You tried to coax them in.

Mr. O'Connell. I am addressing myself to whether or not you think it advisable to offer some outside help to get them in. You admit that it would be very desirable from the standpoint of your organization to have 100-percent participation. You haven't been able to get that.

Mr. Bash. To be perfectly frank with you, I have never given it any serious thought.

Acting Chairman King. Do you think the Federal Government has the authority to coerce, intimidate, or force domestic manufacturers of steel in its various forms to join a cartel?

Mr. Bash. I don't know, but I doubt it.

Acting Chairman King. Speaking only for myself, on my own views of individual liberty, I should deny that it had.

Mr. O'Connell. I wasn't attempting to indicate that I thought it was within the power or not within the power or that I thought it was desirable or not. I merely said it seemed to me the witness' position would lead necessarily to the conclusion that whatever would be reasonably necessary to get 100-percent cooperation, that you think is not essential but desirable, would be worth giving consideration.

Mr. Bash. I don't think that the Government should in any way interfere with the liberties of either individuals or corporations when it comes to the question of trying to force them.

Mr. O'Connell. What about the cartel organization? Would you say that that same statement would apply as regards the activities of your group?

Mr. Bash. Yes; I don't think that we would want anything that would be used to force them into the cartel system.

Mr. O'Connell. As I have interpreted the letter that we have had so much discussion of, it would come in the category of attempts on the part of your organization to force outsiders either into your organization or out of the market, the export market.

Mr. BASH. Well, we would much prefer to have them in, but if we are assuming responsibility, I can't help but keep coming back to it all the time, we have assumed responsibility for the entire shipment of America——

Mr. O'CONNELL (interposing). You voluntarily assumed it?

Mr. BASH. It would seem to me that we should be allowed to defend ourselves

Acting Chairman KING. Excuse me, you assumed the responsibility for the entire shipments of the United States?

Mr. BASH. Yes, sir.

Acting Chairman KING. What business had you or your group to assume that responsibility? The Webb-Pomerene Act doesn't give you or your group the authority to assume that responsibility, if I properly interpret it.

Mr. BASH. We didn't willingly assume the responsibility. We had to be responsible for their shipments.

Acting Chairman KING. For what shipments?

Mr. BASH. For the shipments of the nonmembers, and in exchange for the quotas which were granted us which were based on total shipments from the United States.

Acting Chairman KING. And in order to avail yourself of the provisions of the Webb-Pomerene Act you construed it to authorize you to assume that responsibility even though it meant that you by intimidation or coercion or by cutting of prices could crowd out of the market those who didn't join your organization or force them into joining it.

Mr. BASH. Well, we never used any intimidation. We endeavored to the best of our ability to have them join, trying to point out to them the advantages of coming into the association.

Acting Chairman KING. Do you think that you went any further than labor unions in trying to get employees to join their unions? They have used a good deal of force, I am told, in some activities.

Mr. BASH. I don't think we went as far. From what I understand I don't think we went as far.

Acting Chairman KING. I voted for the Webb-Pomerene Act and made what contribution I could to see it passed. I never dreamed that it could be utilized as a club or bludgeon to force producers into the cartel, that is domestic producers, or to force them at all, or to use coercion in order to bring them within the periphery of its influence and power.

Mr. BASH. I don't think we have used it as a club.

Acting Chairman KING. Well if you have, you have done wrong, in my opinion.

Mr. BASH. So do I, because then it enters into the question of restraint of trade.

Acting Chairman KING. I think the purpose of that act was to emphasize the fact, in a way, that the United States was not self contained, that it was to the advantage of manufacturers and agriculturalists to find markets for their surplus commodities, to recognize the fact that we were not isolationists, as some Americans would like to have us, and that trade and commerce were essential to the prosperity of the individual as well as groups, and our industry generally, and that if we could take an important part in the commerce of the world, find markets for our surplus commodities, we would be helping not

only the producers of those commodities in the United States, but generally the whole economy of our country, and to that extent, aid the rest of the world.

Mr. BASH. I think the Webb-Pomerene Act has certainly aided the completion of that. Without the Webb-Pomerene Act, as I mentioned, we would have the most severe competition to contend with from Europe, and I seriously doubt that we would have been able to have maintained the position that we have attained in the export trade year in and year out.

Acting Chairman KING. Suppose that any considerable number of companies producing steel in the United States refuse to come into the cartel, accept the cartel system, what would be the result?

Mr. BASH. I am afraid if they were major interests there wouldn't be any cartel, we would be back in the old cat and dog days, fighting each other tooth and nail.

Acting Chairman KING. Don't you think that would be better than by any compulsory process to bring people into a cartel system?

Mr. BASH. Yes.

Acting Chairman KING. You do recognize, however, that the cartel system will be menaced, or at any rate its benefits will be greatly minimized if there is a considerable number of American producers who not only refuse to join but try to displace the national markets of the world?

Mr. BASH. Yes.

Acting Chairman KING. What recommendation do you and your group make in order to preserve the cartel system in the spirit in which it was contemplated by the Webb-Pomerene Act when it was passed, and at the same time allow freedom of action on the part of those who do not wish to join the cartel? Have you anything to suggest?

Mr. BASH. No. There are a lot of aspects which have been brought up today from that angle which I have not personally thought out or attempted to.

Acting Chairman KING. I can see there are some problems there and if the nonmembers of the cartel group were bent upon smashing it or seriously injuring it by cutting prices far beyond what would be reasonable so that even they lost money on their operations, it would present a situation that might call for at least further consideration.

Mr. BASH. The inevitable result would be if we had an umbrella over some one and they persisted in taking—I won't say the major share, but a good share of the business—the net result would be that the cartel would collapse.

Acting Chairman KING. Would you regard that as unfortunate?

Mr. BASH. Yes.

Acting Chairman KING. Would it result in cheaper prices of domestic steel to consumers of domestic steel?

Mr. BASH. I don't think it would have any effect on the domestic situation, I don't know. I don't know the situation as it exists in the domestic trade, but I don't see why one should be related to the other.

Acting Chairman KING. If the cartel system were voided by any reason or any cause it would, if I understand your philosophy, superimpose upon the domestic market a larger quantity of domestically produced steel, and thus increase competition here.

Mr. BASH. There would be more steel to be sold in the domestic market. As to whether it would create more competition, I don't know, but it would certainly be more steel to the extent of the difference between what we are able to do under a cartel and what we might be able to do if there weren't a cartel.

Acting Chairman KING. Is it your opinion that if there were no cartel our foreign markets would be greatly restricted?

Mr. BASH. Absolutely. I think they would be reduced very considerably.

Acting Chairman KING. And you would have to reduce production in many steel mills of the United States?

Mr. BASH. Yes.

Acting Chairman KING. And to that extent it would injuriously affect labor?

Mr. BASH. Exactly, and I think it would come to the point that we just couldn't stand the gaff of continued foreign competition with the assistance granted in some measure or other by the governments of those various nations who were fostering foreign trade at all times.

Acting Chairman KING. You could, of course, exclude all steel commodities if you had no cartel, through the power of Congress. Under the interstate commerce power which it has, it could impose tariff duties which could keep out competition.

Mr. O'CONNELL. Is there a tariff now?

Mr. BASH. I understand there is.

Mr. O'CONNELL. How substantial is it, do you know?

Mr. BASH. I have no idea.

Mr. HENDERSON. I would like to register a slight disagreement with the witness on whether or not it would affect the domestic market if the United States were in.

I think it is the history of the big cartels in recent years—and I think at the forthcoming cartel hearing before this committee [1] it will be shown that it is the custom, and considered a justifiable one—to move into markets of those who are not participants in the cartel, either with the purpose of urging them to come in or of meeting their competition elsewise.

During the N. R. A. many instances came to my attention in which members of a cartel would be assigned different countries outside the cartel and asked to keep up with competition in those countries—in other words, even to the extent of selling at a loss for the purpose of gaining that market and retaining a certain amount of tonnage for the cartel. I have no doubt that what Mr. Schroeder fears is exactly what would take place, particularly if the world ever is restored to a peaceful basis and a large amount of tonnage which is now employed for armament and other purposes is turned toward peaceful pursuits. That would be particularly true with the rise of the capacity of two producers who are not members—Soviet Russia and Japan. Added to the new German capacity and to the agitation for English capacity, which has been making great strides in the last few years, I don't believe that anything short of a definitive solution could be maintained against that competition.

I think that is one of the things which very definitely faces us in the world organization of heavy industries, and some of the light ones, wherever there is a very close integrated control extending to super-

[1] Hearings on cartels are included in Hearings, Part 25.

national organizations. I think the evidence heard, Mr. Chairman, is going to be very helpful to this committee when it takes up the consideration of cartel principles, perhaps sometime in January or February.

Mr. SCHROEDER. Mr. Chairman.

Acting Chairman KING. Just one moment, please. As I have indicated, I have been very much in favor of the Webb-Pomerene Act and I foresaw when it was under consideration in the Senate, when I voted for it, that it afforded a wider market for our commodities and I would not favor any measure that would imperil the benefits that are to be derived from the cartel system.

The point I had in mind was that I would be averse to the utilization of the cartel system by those who are in the American group to force American producers into the cartel system. I can realize the benefits that might result generally and persuasion, you know, is a very proper method of bringing about results which will be conducive to the interests of all.

Mr. BASH. The experience today has been that rather than hurt, they have profited considerably by it, very considerably.

Mr. SCHROEDER. I wanted to make sure that Mr. Henderson understood the remarks I made this morning about the possible effect.

This morning we were talking about the difference between a consideration and an effect. I said that we had no consideration of imported steel but there might be an effect of it. I wanted to clear up any possible misunderstanding. If we were to go further with the thought that we had no cartels and foreign prices were very low and we were then forced to sell in export markets at very low prices, then suppose further that steel came into this country and crept under the tariff barrier, it would come in first at distant points from our own mills because our own costs would be highest at those points. If it should go further and come in all around the seaboard points and take a substantial proportion of our business away from us, that would mean lowered employment of our men in our mills. It might conceivably affect the whole economic set-up, it might reduce our prices and it would have the effect of either making us work for nothing or at a loss, or bring our wages down. It just upsets everything.

That is the thing that I spoke of, the thing that I meant when I wrote my draft report, and some of my associates in the Export Association don't see it that way. They thought that was less important than I did without a doubt.

Mr. HENDERSON. Let me ask you, in the making of any cartel arrangement, isn't one of the most important functions to be served the preservation of the local market?

Mr. SCHROEDER. The local market meaning the domestic market?

Mr. HENDERSON. Yes.

Mr. SCHROEDER. It is no consideration at all.

Mr. HENDERSON. You mean in the making of a cartel?

Mr. SCHROEDER. Yes.

Mr. HENDERSON. I mean in the minds of those who come into a cartel arrangement, isn't that one of the things that is most essential, holding the home market sacrosanct?

Mr. SCHROEDER. Not in our minds.

Mr. AVILDSEN. Couldn't they do that by tariff without providing a cartel? Couldn't the same thing be accomplished by tariff with a given country?

Mr. HENDERSON. It hasn't been accomplished. In fact one of the arguments for organization of international cartels was the ability to transcend that.

It is an essential of every important cartel agreement.

Mr. REYNDERS. But we can't do it in our case.

Mr. HENDERSON. No; we can't do it.

Acting Chairman KING. I may have misinterpreted your position. Do you mean to say that in the operation of a cartel you haven't in mind the domestic market, the protection of it so far as possible, that you are interested in finding a market for exports rather than in protecting the domestic market who are producing more than you ship abroad?

Mr. SCHROEDER. We have not considered the Export Association or its cartel affiliations as having anything to do with domestic business.

Acting Chairman KING. Did you plan with a view to ignoring the domestic demands?

Mr. SCHROEDER. It is just a totally different business in our minds.

Acting Chairman KING. It would seem to me that in the operation of your cartel system you would not want to destroy or injure or impair in any way the domestic market and the domestic producer.

Mr. SCHROEDER. We don't want to take any conscious act at all that would affect domestic business. We specifically except it from our agreements.

Mr. HENDERSON. I take it what you are saying is that in the making of these agreements, as was evidenced by the letter when the Earl of Dudley was here and as I think Mr. Bash said, the American group can only discuss export matters. I gather from what you said here recently that independent of the cartel arrangement you can't be totally unmindful of what effect the existence of a cartel has on selling in this market. That is, if you are not in it.

Mr. SCHROEDER. That is what I wanted to point out as the thing that was in my own mind but which was no part of our association membership. In other words, our association membership was directly——

Mr. HENDERSON (interposing). You don't mean to imply that those boys in that meeting who were sitting under the umbrella weren't being told that their position locally, domestically, was in jeopardy, if they kept on with these selling arrangements.

Mr. SCHROEDER. I was one of those there.

Mr. HENDERSON. You were one of them there. There were others there. You weren't selling below the fixed price, were you?

Mr. SCHROEDER. At that time there was no agreement so far as we were concerned. We were a nonmember of that group.

Mr. HENDERSON. You were a nonmember?

Mr. SCHROEDER. We were at that time a nonmember, invited to attend and to join.

Mr. HENDERSON. You weren't unmindful of what the effect might be on the domestic market of an organized world cartel selling in this market, were you?

Mr. SCHROEDER. We declined to discuss it. I kept it in my mind as a reservation.

Mr. HENDERSON. Yes; and I think it was in the mind of every man there.

Mr. SCHROEDER. I don't think so.

Mr. HENDERSON. Then we have a difference of opinion.

Mr. SCHROEDER. I wanted to bring that point out more clearly, so it wouldn't be left as a misunderstanding.

Mr. AVILDSEN. Mr. Schroeder, is it a fact that we were importing a lot of steel from Europe before this cartel was entered into and such importations ceased afterwards?

Mr. SCHROEDER. We are continuously importing steel, I should say in all principal products, in varying amounts, with cartels, without cartels.

Mr. AVILDSEN. I remember Mr. Gregg testified the other day that down in Alabama they have to compete with imported cotton baling wires brought in here under the American price.

Mr. O'CONNELL. I don't want to labor the point, Mr. Schroeder, but if I understand you correctly, you stated that the effect of the existence or absence of a cartel organization in this country would be apparent insofar as the domestic market was concerned, that is that effect was in the picture, but that in your consideration of the agreement with the foreign cartel, you gave no thought particularly to what that effect was. Is that correct?

Mr. SCHROEDER. That is correct.

Mr. O'CONNELL. Do I understand also that the reason that you did not consider the obvious effect that the presence or absence of such an agreement would have was because you are prohibited by law from using that as one of your considerations?

Mr. SCHROEDER. We were prohibited by law from making that a part of any of our agreements. We reminded our foreign visitors that we were not prepared to discuss such a thing.

Mr. O'CONNELL. It seems to me a little bit naive, though, to expect us to understand that it was apparent that the presence or absence of the agreement would have a very important effect upon the domestic market and also to expect us to believe that all the participants in the discussions were able to put that very important consideration out of their minds, and it had no effect on the negotiations.

Mr. SCHROEDER. I have in mind other times when cartels have broken down, there have been interruptions in both the tin plate and tube cartel, there has been no substantial change in the amount of steel, either tin plate or tubes, imported into this country, before or after the break-down. There may have been some change, but a very small one.

Mr. O'CONNELL. I don't think we understand each other very well. I will try it once more. As I understand it, it is your belief, or it was your belief at the time you wrote this memorandum, that the existence of an agreement between your organization and the international cartel would have a definite effect upon the domestic market for steel.

Mr. SCHROEDER. It would have some——

Mr. O'CONNELL (interposing). And the absence of such an agreement would have a different effect, but also a substantial effect.

Mr. SCHROEDER. It would have a possible effect.

Mr. O'CONNELL. If I get your words correctly you say "Such renunciation," meaning of the agreement, "would inevitably be followed by an influx of low-priced foreign steel in domestic markets." Now at that time at least you were speaking of something more than possible effect.

Mr. SCHROEDER. I was.

Mr. O'CONNELL. Now you are also expecting us to believe, with that condition present in your mind, that it was also possible to exclude it from your mind when you were making negotiations with a foreign cartel. Does that seem reasonable?

Mr. SCHROEDER. I can keep it, let's say, hidden in my mind. It can exist in my mind and not in the mind of our associates who are making this contract.

Mr. O'CONNELL. As a reasonable man, can it exist in your mind, can you so departmentalize your mind so that that situation will not have effect upon your negotiations, what you want to do in the way of such an agreement?

Mr. SCHROEDER. I want to make clear the difference of doing anything because of something and realizing that something might be an inferential result.

Mr. O'CONNELL. You didn't have much doubt about it at the time your wrote this memorandum.

Mr. SCHROEDER. I said an inferential result.

Representative WILLIAMS. As a matter of fact, what has been the result of the cartel on the domestic market?

Mr. SCHROEDER. None that I know of.

Representative WILLIAMS. It hasn't had any effect on it?

Mr. SCHROEDER. No.

Representative WILLIAMS. What has been the effect of the cartel on our export trade?

Mr. SCHROEDER. Generally averaging over all products it has maintained a higher market price in the foreign markets.

Representative WILLIAMS. Has our export trade increased under the system?

Mr. SCHROEDER. Yes.

Representative WILLIAMS. Then it has been beneficial from the standpoint of the exporter but it hasn't affected the domestic market.

Mr. SCHROEDER. Correct.

Representative WILLIAMS. That is the purpose of it.

Mr. SCHROEDER. That is the purpose of it. That is why we are in it. We are a very much smaller exporter than, I would say, Bethlehem or U. S. Steel. We were a small nonmember. We were asked to come in, we came in. Our quotas are a few percent or none at all, but we believe in this thing.

Representative WILLIAMS. It is a rather difficult matter for me to disassociate the two elements in my mind. It seems to me that whatever would increase the export and the export price would necessarily affect the domestic market. In other words, if we didn't have the export market, it seems to me that we would have a log jam on the domestic market with depressed prices.

Mr. SCHROEDER. The type of products that we make, sir, we only make on order, we don't make them and try to sell them afterward. If we didn't get our export orders we would be idle for that length of time.

Mr. HENDERSON. But that idleness, it has been testified here, does result in a breaking of posted prices, does it not?

Mr. SCHROEDER. I think there is usually some part of every mill capacity idle.

Mr. HENDERSON. Let me make it then as a statement. It has been testified here by witnesses that cutting below the base price does take place when the industry is running at low levels of operation. So if you didn't get that tonnage it would have an effect on realizations in the domestic market. I want to read one more thing from this New York Times report of the Dusseldorf meeting. It says:

> European Cartel hopes first, that the American interests soon may reach an agreement among themselves despite the anti-trust laws, and, second, that next spring may bring such an increase in American domestic consumption as to eliminate American underselling entirely. Should these hopes prove illusory, however, the European Cartel spokesmen left no doubt that they would resort to fighting prices in order to meet American competition, especially in the Far East.

I see no reason for supposing that if they would do that in the export trade, it would not also go for the domestic trade if they were confronted with an excess of capacity.

Acting Chairman KING. Mr. Schroeder, let's get out of the realm of metaphysics and get down to realism. I don't understand you, I will say very frankly. Supposing that you were the president of a corporation producing steel, some of which was consumed and some of which you found an export market for, and your corporation was invited to join this group under the cartel system, under Webb-Pomerene Act, would you not, before you joined, want to know whether or not it would affect injuriously or otherwise your corporation that was producing steel?

Mr. SCHROEDER. Yes, sir.

Acting Chairman KING. Before you joined the cartel, you would want to know whether it was going to destroy or impair the domestic market, wouldn't you?

Mr. SCHROEDER. We would look over——

Acting Chairman KING (interposing). I am speaking of you, yourself, your company.

Mr. SCHROEDER. We would look it over very carefully.

Acting Chairman KING. And if you believed it would injure the domestic market, you wouldn't join it?

Mr. SCHROEDER. No, sir.

Acting Chairman KING. Then you would join to find a wider market for your product and not for the purpose of injuring the domestic market?

Mr. SCHROEDER. Correct.

Acting Chairman KING. In other words you would expect perhaps to improve the condition of the domestic market by removing from American consumption the surplus commodities and shipping them abroad and finding a market for them there?

Mr. SCHROEDER. That is the point—we wouldn't quite go that far, sir; we just wouldn't make the material. We have been in the export market for a great many years in a small way.

Acting Chairman KING. Supposing that you had a capacity in your mill for the production of more than what you had been selling in the domestic market, and you found that by joining the cartel you might be able to compete in foreign markets and sell some of

your surplus products here and increase your capacity. Did you have that in mind?

Mr. SCHROEDER. No; the thing we had in mind was selling the same amount of material at a higher price, because the quotas in this association are based upon past performance.

Acting Chairman KING. Do you mean to say that those who joined the cartel, the manufacturers of steel in the United States who became members of the cartel, had no intention of expanding their market; they were going to be satisfied with just the production which had characterized their operation in the past?

Mr. SCHROEDER. They tried to expand their markets as a whole, but they agreed with each other to take their own proportion of that.

Acting Chairman KING. But the purpose was, was it not, to find foreign markets and thus increase production at home, so that they would have a surplus to ship abroad?

Mr. SCHROEDER. Yes.

Acting Chairman KING. So then, in joining the cartel, obviously, members of the cartel would be interested in the effects of the cartel upon the domestic market?

Mr. SCHROEDER. Well, if we were to consider that there might be a cartel, but we would not be a member, then we could reap the advantages of a cartel price without restriction in tonnage. We know enough about this business to know that couldn't be. We have to take our choice of a restricted output for export——

Acting Chairman KING. I give it up. Don't put that in the record.

Mr. HENDERSON. I think that ought to be in the record. If you don't, I give up.

Mr. AVILDSEN. I would like to ask a couple of questions. You testified this morning that your American associations divided into several groups, that is, the plate group and the heavy-shape group and the sheet group, the tin-plate group, and so forth. Now, I understand that so far as plate is concerned, that did not work out very well, due to the lower prices which were quoted by this Philadelphia group.

Mr. BASH. That is it. That was applicable to that group and did not spread to the other groups in view of the fact they they don't make the other products and if they do they haven't shown any particular interest in export.

Mr. AVILDSEN. How many groups are working on what you call a satisfactory basis now? How many commodities? Could you name the commodities?

Mr. BASH. Yes; well of course none of these agreements are now in effect of course, since they have been suspended since the beginning of the war. Prior to that time the ones that were working successfully were the rail group, the tin plate group, and pipe, although we didn't have an international agreement on pipe. The heavy group and the sheet group were never consummated.

Mr. AVILDSEN. As far as tin plate, pipe, and rail were concerned, those groups were working statisfactorily.

Mr. BASH. That is right, with a certain amount of normal difficulties, which, naturally, they would always have, but as a whole they were working satisfactorily.

Mr. AVILDSEN. And yet you were not in any way violating any of the provisions of the Webb-Pomerene Act as far as those commodities

were concerned, in other words, there was no pressure put on any competitors in this country who were not members of the cartel.

Mr. BASH. That is right, correct.

Mr. FELLER. May I ask what you meant by saying the heavy steel group was never consummated?

Mr. BASH. In February 1937 there was a proposed agreement. We worked along in an effort to consummate it but the agreement was never signed, and the war came along and all negotiations ceased and any international agreements that we had were suspended.

Mr. FELLER. Well, this letter about which we have had so much discussion, the letter of November 14, 1938, deals with plates, ship steel, ordinary plates and shapes, do I understand there never was any agreement in effect at all with relation to those?

Mr. BASH. There was never any international agreement. We were negotiating and had not cleared up all the details.

Mr. FELLER. Then you undertook this action of asking the foreigners to sell at lower prices even though there was no agreement in effect at all?

Mr. BASH. There was an understanding between us. It was a question of getting all the details straightened out.

Mr. FELLER. Did you have a responsibility under an agreement which had never been consummated?

Mr. BASH. We felt that we had a responsibility. We felt that the agreement had been consummated and it was a question of putting it in form.

Mr. FELLER. Were you liable for penalty?

Mr. BASH. We were, to my mind.

Mr. FELLER. I would just like in order to have the record clear on this point, what was the date or the approximate date at which the agreement was in such shape that you felt that the obligations of an agreement had become incumbent?

Mr. BASH. I think it was June of 1938.

Mr. FELLER. I have no further questions.

Acting Chairman KING. Any further questions?

Mr. O'CONNELL. Mr. Bash, are you sufficiently familiar with the Webb-Pomerene Act to tell us whether the act imposes any obligations on your organization as regards making available your contracts or certificate of charter and other things to some Government agency?

Mr. BASH. I don't know.

Mr. O'CONNELL. Is there any continuing supervision or check-up as regards what you do by any governmental agency?

Mr. BASH. I think there is but what there is, I don't know at the first.

Mr. O'CONNELL. Does the act require you to file copies of any international agreements?

Mr. BASH. I don't know.

Mr. HENDERSON. There is no requirement that you disclose to the Federal Trade Commission the details leading up to negotiations for agreements and the like?

Mr. BASH. There is no requirement that I know of.

Mr. HENDERSON. And there is no requirement to furnish to any other Government agency those details?

Mr. BASH. Not to my knowledge.

Mr. Feller. In order that the record may be straight on this point, section 5 of the Export Trade Act requires the filing of the certificates or articles of incorporation and the bylaws. It goes on to say that—

> The Association shall also furnish to the Federal Trade Commission such information as the Commission may require as to its organization, business, conduct, practices, management, and relation to other associations, corporations, partnerships and individuals.

Mr. Bash. It is my understanding that we filed the original information with some department of the Government, I don't know which.

Mr. Feller. Federal Trade Commission.

Mr. Bash. Federal Trade Commission and I think subsequently that we have made a report to them once a year.

Acting Chairman King. Anything else, Mr. Feller?

Mr. Feller. I would like first to state that I and the members of my staff appreciate very much the patience of the committee. We regret the fact that illness has kept Senator O'Mahoney from presiding here, but I also must say that we have the highest regard indeed for the unfailing courtesy, tact, and patience of Senator King in presiding. Before you close the hearing, Mr. Chairman, I should also like to introduce to be placed in the record, a number of corrected tables to the pamphlet "Major Characteristics of the Iron and Steel Industry," [1] which was prepared by the Department of Justice for the Temporary National Economic Committee.

Acting Chairman King. They may be received.

(The tables referred to were marked "Exhibit No. 1449" and are on file with the committee.)

Acting Chairman King. If there is nothing further, the committee will stand adjourned subject to the call of the Chairman.

(Whereupon at 4:30 p. m., the committee adjourned subject to the call of the Chairman.)

(Further testimony on the Steel Industry is resumed in Hearings, Parts 26 and 27.)

[1] "Exhibit No. 1349", included in Hearings, Part 18.

APPENDIX

EXHIBIT No. 1398

[Copy of letter]

CARNEGIE ILLINOIS STEEL CORPORATION

UNITED STATES STEEL [SEAL] CORPORATION SUBSIDIARY

(In ink:) Miss Reynolds.

FEBRUARY 25, 1938.

D. F. Austin, Vice President in charge of Sales
J. H. Stapleton

#2 History of Earnings

We believe an attempt to continue increasing the price of semi-finished products is not a proper move without a thorough study of the amount of business available from non-integrated producers of finished products. If we accept the theory that we are and wish to continue to be the supply source for non-integrated steel processors, we must leave sufficient conversion margin to make the business interesting to them.

#2 Sales Department

We have consolidated our New York District Office at 71 Broadway, and it will be necessary for you to state why this move was made rather than changing to an up-town location.

#112 Sales Department

We believe the General Sales Office in Chicago should be demobilized, and base this on the thought of centralizing responsibility. The Assistant should be adjacent to the Manager, and as you know, our Chicago contacts were more of a nuisance than a benefit.

#114 Sales Department

To handle small orders through our warehouses at the mill price would result in a definite demoralization of the warehouse market. We presume the thought is to handle these small orders through the warehouse at a warehouse price, but we do not believe we can influence the buyers to pay us a higher price when mill shipments can be obtained elsewhere. If from a cost standpoint, we find it preferable to obtain small items from the warehouse rather than mill, we should do so, but the mill purchasing such steel from the warehouse. We are of the opinion that a great many of our small items come from large buyers of steel.

#115 Sales Department

It is stated that our sales policy is to discourage executive selling and encourage solicitation by the sales organization in the field. We do not see how this has any particular bearing on the subject that the pension system should not be considered a part of the salesmen's remuneration. We agree with the thought but do not understand the reason.

#117 Sales Department

We presume this has reference to giving the Carnegie-Illinois Steel Corporation authority to approve all salaries, providing they are within the proper calssifications to be established.

#98 Sales Department

This policy is too specific. We obtain greater sales representation through furnishing semi-finished material to nonintegrated units who have selling organiza-

tions for the distribution of the finished products. While it is true they are competitive with us, they, nevertheless, to a large degree, are under our control, and were we to discard these accounts, the tonnage would be furnished by other steel producing competitors, and our competition on the finished products would simply be increased without our obtaining any portion of the profit by selling the non-integrated units. We believe we obtain 60% or more of the possible profit, and we are of the opinion that a great deal of this tonnage represents items which otherwise would be lost to us.

#101 *Sales Department*

We do not believe this is feasible for the reasons outlined under #114.

#103 *Sales Department*

We do not believe we can accept this recommendation in its present form. There are certain high-cost products on which too great a loss would be entailed if competitive conditions resulted in low prices.

#4 *Market Participation*

The association between iron castings, fabricated castings, and stamped products made from sheets is rather remote. With heavy products we were successful in a campaign to promote the use of rolled steel sections instead of castings, but with light stamped, which are generally made in large volumes of an item, we question whether it would be practical to promote a campaign to promote the use of flat rolled products instead of pig iron. There appears to be no statement to the effect that pig iron products are an unprofitable item, and it certainly is a readily sellable product. The large number of foundries existing in this country, none of which would be satisfactory for manufacturing other products, indicates considerable resistance would be encountered, and the available scrap-market always leaves an opening for lower costs if the foundries decide to change from cast iron to cast steel. We do not believe the furnaces being used today in the manufacture of foundry iron could be used to produce liquid metal for conversion into steel; therefore we would suffer a substantial loss in equipment.

#5 *Market Participation*

The statement is incorrect that semi-finished products yield little or no profit. When little profit is obtained, it is because the tonnage is placed at high-cost mills, which otherwise would be used in the production of high-cost items for conversion by our own company. Our net return on semi-finished materials may be lower than on finished products, but we feel we are reaching a market which otherwise would not be reached by us, and we are dealing with competition which is more friendly than it would be were these competitors purchasing from competitors. Briefly, we obtain the major portion of the profit.

#104 *Sales Department*

We understand that you and Mr. Perry are both opposed to the cooperation suggested.

#108 *Sales Department*

While the Indianapolis District has been established, it would appear far more preferable to have this as a sub-office of the Chicago District Office. We believe our cost has been increased without any corresponding gain in tonnage.

#109 *Sales Department*

The intent of this paragraph is evidently to meet Bethlehem's competition in New York State. There is no question but that this competition exists, but it appears dangerous to our warehouse company to pursue the practice of shipping all structural shapes from Waverly. As a matter of fact, this is not being done, and Waverly is being used the same as other Scully Warehouses, that is, where delivery requires, a few items will be purchased from Scully to complete shipment of large orders, particularly when delivery promises have been broken. This policy should be continued.

#58 *Market Participation*

Our continuance in the axle business in the Pittsburgh area should be predicated on the costs with present equipment and the rate that could be expected by the purchase of new equipment. The amount of tonnage available per annum is a known factor, but we should determine from what friendly axle manufacturer we would obtain the axle billets to replace the axle tonnage lost to us. Here again, we would be entering the semi-finished field, to a large degree, when it seems to be our policy to reduce our participation.

#118 *Sales Department*

We can agree with this in theory, provided a suitable plan is developed.

EXHIBIT NO. 1399

[Prepared by Department of Justice]

BASE PRICE OF TIN PLATE AT PITTSBURGH

BY YEARS, 1925-1939

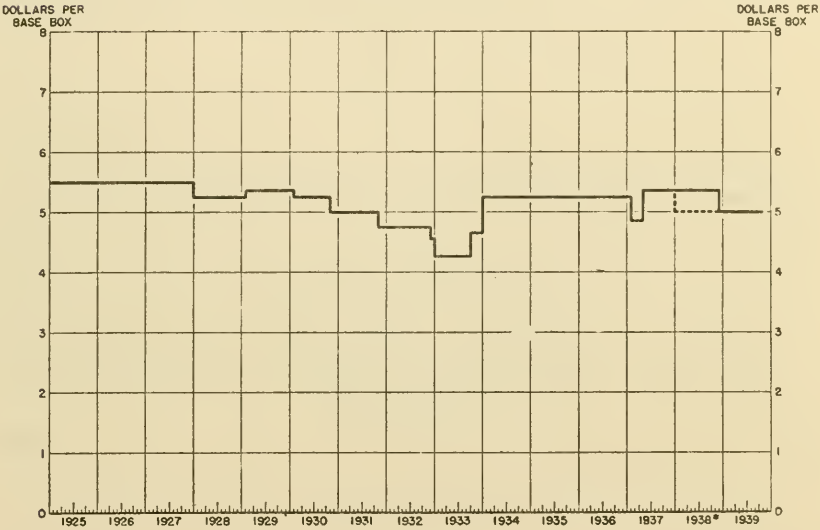

Exhibit No. 1400

[Prepared by Department of Justice]

MARKET PRICE OF PIG TIN (NEW YORK)

BY MONTHS, 1929-1939

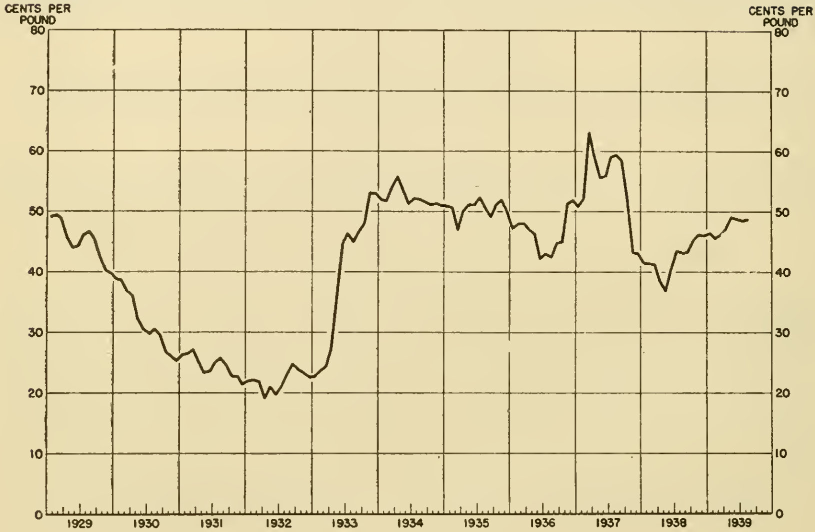

Exhibit No. 1401

[Prepared by Department of Justice]

CONTRACT SALES PRICE OF NUMBER 2 PLAIN SANITARY TIN CANS (COKE)

BY YEARS, 1929-1939

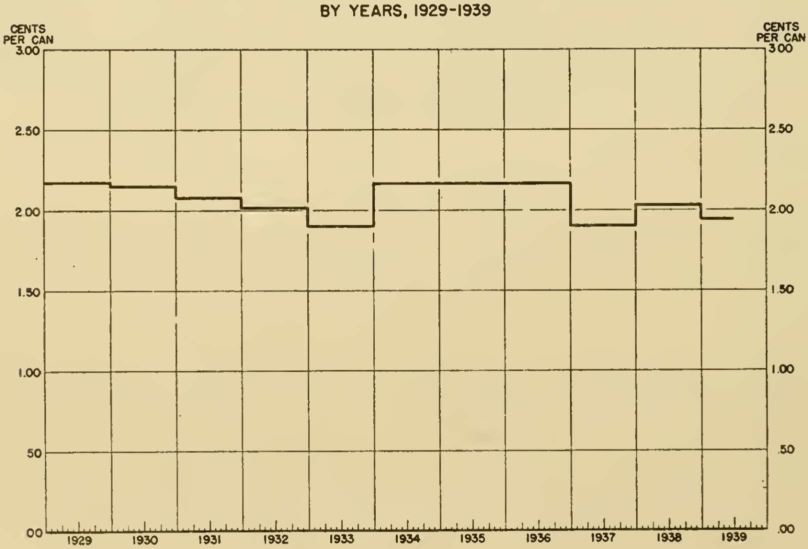

Exhibit No. 1402

Relationship of cost of tin can to selling price of canned products (No. 2 Can)

Year	Tomatoes			Corn			Peas		
	Selling Price per Can	Cost of Can	Ratio of Can Cost to Selling Price	Selling Price per Can	Cost of Can	Ratio of Can Cost to Selling Price	Selling Price per Can	Cost of Can	Ratio of Can Cost to Selling Price
1934-Jan	$0.06458	$0.02067	32%	$0.06458	$0.02067	32%	$0.0875	$0.02067	23.6%
July	.06875	.02067	30%	.06666	.02067	31%	.0875	.02067	23.6%
1935-Jan	.06875	.02067	30%	.08333	.02067	24.8%	.09166	.02067	22.5%
July	.07083	.02067	29.1%	.08333	.02067	24.8%	.05833	.02067	35.4%
1936-Jan	.05416	.02067	38.1%	.05833	.02067	35.4%	.05416	.02067	38.1%
July	.05208	.02067	39.6%	.05416	.02067	38.1%	.0625	.02067	33%
1937-Jan	.05625	.01902	33.8%	.07083	.01902	26.8%	.07708	.01902	24.6%
July	.05625	.01902	33.8%	.06458	.01902	29.4%	.0625	.01902	30.4%
1938-Jan	.05416	.02032	37.5%	.05416	.02032	37.5%	.05833	.02032	34.8%
July	.05208	.02032	39%	.05000	.02032	40.6%	.05833	.02032	34.8%
1939-Jan	.04916	.01941	39.4%	.04791	.01941	30.5%	.05000	.01941	38.8%

Source of figures on Can Costs and Selling Prices: "The Almanac of the Canning Industry" Published annually by the Canning Trade Publishing Co., Baltimore, Maryland.

Exhibit No. 1403

October 15th, 1935.

Mr. W. A. Irvin:

In connection with the American Can Company claim, I think an important point, which is perhaps not fully realized by Mr. Wheeler and other members of the Executive Committee, is that before we assented to the Steel Code containing this provision we submitted the actual wording to Mr. Phelps for his comment. Unfortunately for us this was done verbally and not in writing. Mr. Phelps had no comment to make, the reason being that it accomplished the very purpose that he has been seeking for several years, namely, no cutting of the American Can price.

It seems strange to me that a company of the standing of the American Can Company would seriously press such a claim, after having given its consent, at least its tacit consent, to this provision of the Steel Code. It was only after we had thus committed ourselves did they make any protest.

H. L. Hughes.

(Penned notation:) W A I saw Mr. Wheeler 10/15/35.

Exhibit No. 1404

June 5th, 1936.

American Can Company.

Mr. W. A. Irvin:

As a result of the meeting on April 21st, 1936, between Messrs. Taylor, Irvin and Phelps, you instructed me to make up a schedule of additional discounts for tin plate taken by the American Can Company provided they would increase the proportion of their business placed with us from 75% to over 90%. Your instructions further were to provide liberal discounts for the larger quantities.

I made up such a schedule starting with an additional discount of 15¢ per box for the 9th and 10th million boxes and ranging up to an additional discount of 50¢ per box for the 17th and 18th million boxes. This latter figure would bring the price down very close to cost and it would show a saving to the American Can Company over the present contract of about three million dollars annually.

On May 6th, 1936, you called on Messrs. Phelps and Pfeltz and gave them this suggested schedule under the pledge of secrecy, at which time they stated they would like to think it over.

Without further conference with us, on May 21st, they served their Summons and Complaint.

Sometime in the interim and without further conference with us they made use of our proposal of additional discounts as a club to conclude contracts with Bethlehem, J & L, Republic and Youngstown. We understand that these contracts cover a five year period and obligate the American Can Company to take from each of these four companies 400,000 boxes annually at our published price less 7½%. However, these same contracts further obligate these four companies to supply up to a million boxes each, if required by the American Can Company, at a reduction of 25¢ per box beyond the 7½% discount. This additional discount of 25¢ a box applies also to the 400,000 boxes minimum provided the American Can Company takes the full million boxes. There is no doubt in our mind that they intend to do so as it means an additional million dollars a year to the American Can Company.

These contracts completely change the situation. It would seem to leave us with but two courses of action—

1—to stand on our present contract and fight the case in the courts if they dare to go there. The danger to us in this course lies not so much in the possible result of the case in the courts as in the damage that the American Can Company would be able to do us during the period of probably two years before the case could get into court. They could offer us cold reduced plate far beyond our capacity to supply and thus reduce substantially the corresponding amount of tonnage due us under the contract. They could be unreasonable in their rejections of plates and claims for damages. They could refuse to cooperate in the scheduling of tonnage at our various plants and could hurt our mill people and make it costly for them in a number of ways.

2—to revise immediately our contract with them giving them an additional 25¢ per box beyond the 7½% discount on all the plate they take. This would cost us about two and one-half million dollars per year. It would meet the contracts already concluded with Bethlehem, J & L, Republic and Youngstown.

In following the second course the seriousness of the situation pricewise in the tin plate market is pronounced. All four companies who have made contracts with American would have to give Continental the same price—in fact one at least has already done so. The news would spread within 24 hours, concessions would be made by all not only to Continental and American but to all other can makers. Wheeling, McKeesport and Weirton would not stand on present prices for a minute. They could not do so and keep their can producing customers in business. The practical result would be that the net price of tin plate to everybody would be reduced from $4.66 per base box to $4.41 per base box. While there might be a temporary gain by the can makers in profit equivalent to approximately 25¢ per box it is my opinion that eventually nothing would be gained by the can makers either. The price of cans would decline in the same proportion as 25¢ per box on tin plate.

The trouble does not stop there—the price of sheet bars of course cannot be maintained at $30. with a $5. reduction in tin plate. A similar reduction would have to be made on the 100,000 tons of black plate that we annually supply to Continental Can Co. These particular price reductions inevitably follow. But it is conceivable that the reduction also will extend to flat rolled products generally.

If we should follow the second course, we are further confronted with the possibility that we may be charged with collusion by the F. T. C. or other governmental agency. This is a very serious aspect of the case.

At present we publish a price on tin plate of $5.25 per base box but actually sell that plate at $4.76 per base box, a spread of 49¢ per box, made up of the 7½% contract differential and 10¢ for 10 Pkg. containers.

At present therefore there is 49¢ fiction in our published price and it is to our published price that the can companies generally tie their selling price of cans. This spread is already too much. The addition of another 25¢ discount would increase the fiction in our published price from 49¢ to 74¢ per box. A situation which must inevitably be aired by the can user or somebody else.

It is to be noted that the Corporation is the only tin plate producer on the spot in this connection. The others do not publish tin plate prices in the first instance and their names are not used in contracts for the sale of cans, as is ours.

H. L. Hughes.

EXHIBIT NO. 1405

AMERICAN CAN COMPANY

New York Central Building, 230 Park Avenue, New York

A. R. PFELTZ, *Vice President*

APRIL 27, 1937.

Mr. B. F. FAIRLESS,
President, Carnegie-Illinois Steel Corporation,
Pittsburgh, Pa.

DEAR BEN: I am sure that you will not forget nor overlook any of the several matters that I talked with you about last evening, but I thought I would drop you a little note specifically referring to each item, and for good and sufficient reasons refer to them very briefly indeed.

1. Was the delivery of plate to our Island factories.
2. Stopping delivery of tin plate on $4.85 basis as of October 1st.
3. Full weight plates because of panelling and denting troubles which we are having with so many cans.
4. Someone who will coordinate sales of tin plate for the several units of the Steel Corporation.
5. Progress made by other companies producing cold rolled strip tin plate thereby enabling them to sell their products for special purposes for which there would otherwise be no sale.
6. Control over Metal Trade Journals in the publication of prices on tin plate, and the elimination of such comments as are foreign to the subject (from our standpoint).

I enjoyed very much seeing you last evening and I am looking forward to another visit with you next Wednesday.

Sincerely yours,

(Signed) Al., *Vice President.*

ARP/U.

EXHIBIT NO. 1406

AMERICAN CAN COMPANY

New York Central Building, 230 Park Avenue, New York

H. A. BAKER, *President*

APRIL 14, 1938.

Contract No. —— Dated ————.

GENTLEMEN: Uncertain and disturbed business conditions have caused a situation in which the official price of tin plate applicable on January 2, 1938 does not now reflect the actual market price of tin plate.

Up to the present date, the American Can Company has paid the regular official price for its tin plate, less the regular allowances for cash and multiple packaging on all ordered production sizes of prime plate with seconds arising. Regular allowances for seconds and standard differentials for lighter and heavier gauge plate have, of course, applied to our purchases.

Under present conditions price adjustments on past deliveries and lower prices for future deliveries should be obtainable and our Company is taking steps to achieve this result.

As soon as practicable after the end of 1938, our Company will average its actual 1938 purchase prices per base box of prime plate on the Pittsburgh Mill basis for 100# prime coke plate, less the regular allowances for cash and multiple packaging, and will voluntarily refund to all contract customers, on the cans shipped in 1938, the difference between the cost of tin plate thus determined and the cost of tin plate similarly determined under the official price as named on January 2, 1938.

This action is taken with helpful intent to clarify the existing situation but without establishing a precedent or prejudicing any of our rights under our contracts as written.

Very truly yours

AMERICAN CAN COMPANY,
(In ink:) H. A. BAKER, *President.*

EXHIBIT NO. 1407

(Stamped:) Received Mar. 24, 1938. H. A. Baker.
(Notation:) Keep.

AMERICAN CAN COMPANY

New York Central Building, 230 Park Avenue, New York

A. R. PFELTZ, *Vice President*

MARCH 24, 1938.

DR. H. A. BAKER,
President, American Can Company, New York Office.

DEAR DR. BAKER: I recited to you and Mr. Phelps last Monday the situation which confronted the Inland Steel Company representatives when they called at Camden the latter part of 1936 to see Mr. Willetts of the Campbell Soup Company regarding Campbell tin plate tonnage. This recitation was in effect as follows:

For 1937 Inland needed tonnage as they had not been able to break in and sell sufficient tin plate to enable them to operate their mills at the same rate of operations as some of the other mills were operating. They named Mr. Willetts the official price, i. e., $4.85 Pittsburgh, $4.95 Gary and Mr. Willetts was not interested. They went back to Chicago and discussed the matter further with Mr. L. E. Block, Chairman and Mr. Joe Block, Executive Vice President, and returned to Camden and again named the same price to Mr. Willetts who was very much provoked, according to Mr. Block's statement, and practically threw the Inland representatives out of the office. They then returned to Chicago for further discussion in the matter and for further instructions the result being the Blocks authorized them to meet competition, which I am given to understand was from Bethlehem. This competition was met in 1937. I am not sure (Mr. Block not having informed me) as to what differential they had to allow per base box from the official price.

I was quite certain throughout 1937 that Campbell had bought under the market, as Carnegie-Illinois had been promised an opportunity to quote and they did not have this opportunity. I therefore on several visits paid me by the Vice President in Charge of Sales of the Inland Steel Company asked him as to whether or not they had sold Campbell and on each occasion he informed me that they had sold Campbell "on the line". I did not believe this statement and on one of Mr. Joe Block's visits here I so informed him, it was late in the day and Mr. Block was anxious to catch the Century for Chicago—he told me that he would like to have some time with me on his next visit. I recently saw Mr. Block; he seemed very anxious to get squared away with the American Can Company and to make a clean breast of the whole matter. He claimed that he did not know that such a statement had been made to me and further informed me that the Campbell instance was the only instance where a price lower than the official price had been named to any buyer of tin plate from them. I asked what Continental was paying and he definitely stated that they were paying the official price.

Mr. Block, in order to square away 1937, now wants to send us a check representing the difference between what we paid and what Campbell paid. I did not accept his proposal but told him I would let him know. I then asked how he was able to name a price lower than named the American Can Company and still conform with the Robinson-Patman Act and he stated their lawyers informed them they could meet competition. I then asked if he gave us a check or credit, if the same would be done for Continental and he definitely said "no".

The same situation which confronted them in 1937 again confronted them in 1938, and regardless as to the promise made by Mr. Grace at the time the conference was held by leading Officials of all the Steel Companies regarding the price for tin plate for 1938, Bethlehem again named a price below the official, and as Inland was, like others, badly in need of tonnage, they found it necessary to meet the situation. This they have done. Regarding this Mr. Block wants to see me, but I prefer not to see him until after the matter has been discussed with our legal advisers.

All of the above brings up the question of the validity of our Bethlehem contract. It is true they do not guarantee our price to be as low as may be named to others, but are they not liable under the Robinson-Patman Act for damages if such lower prices are named to others?

There is no doubt in my mind but that Crown and Continental are both buying from Bethlehem at prices lower than we are paying, and the same is undoubtedly true with respect to their purchases from Weirton. I do know of one instance where a lower than official price was named by Weirton. i. e., Carnation, and the Sales Manager for Carnegie-Illinois Steel Corporation was told by Mr. Cross of Carnation that they would have to name a lower price for their Wisconsin tonnage or they would lose the business, which they have had for 25 years or more. Mr.

Totten, Sales Manager, for Carnegie-Illinois asked the question as to how much it would have to be reduced and if they met the reduction would they get all of the business. They were told the reduction would have to be 25¢ but that they would get but a 15% increase over what they are at present getting in tonnage; and Carnation further stated they would not take the business away from Weirton. Mr. Totten is of the opinion that they are possibly getting an allowance greater than 25¢ on their Maysville business, which is shipped down the river on Weirton's barges from Weirton, West Virginia at a very low cost. I also understand Pet and Nestle are buying at a price below the official, and the same is also true of Borden.

Carnegie-Illinois has but one milk can account, they do not participate in the business of other milk companies, and, personally, I do not think that Carnegie should lose this business and that we should grant them permission to meet the situation without the same conflicting with our contract. A reduction in the official price at this time would be expensive to us and I do not believe it would solve the problem—there is so little business to be had and the mills are operating on such an extremely low basis that there is bound to be a scramble for tonnage.

Mr. Hughes informs me that Continental so far this year has not bought a single package of tin plate here. Weirton is shipping nothing to either Crown Can or Crown Cap; nor is Bethlehem, in fact, Bethlehem has a quantity of plate produced for Crown account which is on hand at Sparrows Point and which they are trying to dispose of to us and other buyers, and as I previously advised you, Crown is endeavoring to sell some of the stock, amounting to approximately 150,000 boxes, through New York Jobbers from their Philadelphia stock. Mr. Milsop, President of the Weirton Steel, had one of his representatives at the Crown plant at Baltimore last Monday and he reports that they have an enormous stock of plate on hand, and as you may have heard, Mr. McMannus who is badly in need of money, arranged to have the 1937 price on Crown Caps good through January and February, this resulted in a majority of the cap buyers loading up;—he afterwards reduced the price on caps so that most of his customers are very much dissatisfied, and his competitors very much pleased at the outcome. Mr. Whetzel of the Steel Corporation visited the Crown Philadelphia Plant the early part of February and informed me that they have an enormous stock of plate, and apparently have a whole warehouse filled with uncrated equipment.

The above is for your consideration, and I hope that we can have an early discussion of this problem with our legal advisers as Mr. Fairless expects to be in New York next week and I should like very much to lay the cards on the table with him at that time.

Yours very truly,

ARP/U. (Signed) A. R. Pfeltz.

Exhibit No. 1408

[Copy]

June 10, 1932.

Mr. I. Lamont Hughes,
President, Carnegie Steel Company,
Pittsburgh, Pa.

Dear Sir: We are enclosing herewith, for your information, copies of interpretation of Laws by Governor Miller.

Yours very truly,

(Signed) W. A. Irvin, *President.*

Sent to:

I. L. Hughes	L. A. Paddock	E. F. Affleck
E. J. Buffington	H. C. Ryding	J. S. Keefe
E. W. Pargny	A. N. Diehl	Chas. Heggie
F. W. Waterman	Carroll Burton	B. F. Harris

United States Steel Corporation,
General Counsel's Office,

Memorandum.

June 7, 1932.

RE RELATIONS WITH COMPETITORS

No understanding, arrangement or agreement, "gentlemen's" or otherwise, in respect of prices, production, division of territory or tonnage can lawfully be

entered into between competitors. It is immaterial whether the obligations or restraints imposed are legal or only moral. In either case they are forbidden by law.

However, it is permissible for competitors freely to exchange information on past sales, prices, capacities, costs and the like, to discuss the conditions and needs of the industry, to provide appropriate means for standardization of product and of cost accounting systems, to establish standards of business ethics and even, I think, to agree not to engage in unfair methods of competition.

The gathering and dissemination of statistics, the standardization of product and of cost accounting systems, the establishment of proper standards of business ethics and conduct and the definition of unfair and unlawful methods of competition are legitimate subjects for the activities of trade associations or of direct discussion between competitors without the intervention of trade associations. But neither trade associations nor discussions between competitors may be employed either to cloak or as a means to effect or enforce, directly or indirectly unlawful agreements to fix prices or to divide territory or business, or the like.

In other words, each individual competitor must be free to act as he pleases without any contractual or moral restraint or coercion whatever. Each has a perfect right to be guided by self-interest, to refrain from acts provocative of retaliation and to do what he can free from any moral or legal restraints to prevent demoralization and to stabilize the industry. To that end the fullest discussion and the fullest exchange of information are permissible. The harmful effects of cut-throat competition, of unfair trade methods, of selling below cost or even a fair margin of profit, and the like, are legitimate subject, of discussion; but the line must be drawn at anything, no matter what, involving coercion or restraint, whether contractual or only moral, which interferes with the free and independent action of each. In other words, reliance must be placed upon enlightened self-interest, not upon any form of concerted action or understanding, express or implied.

To illustrate: It is permissible to inform competitors of one's prices in the past. It is not permissible to state what the future prices are going to be, because that necessarily involves the obligation, either moral or otherwise, to charge the prices named. It is permissible to call attention to the demoralization resulting from price-cutting. It is not permissible by any sort of concerted action to use coercive measures, promises or threats to influence a competitor not to cut prices. The periodic exchange of information on capacity, sales, prices and the like will naturally tend to stabilization, but that is permissible since it is the result solely of enlightened self-interest. It ceases to be permissible only when there is introduced some element of agreement, "gentlemen's" or otherwise, or of concert of action designed to coerce or restrain free and independent action.

There is less uncertainty as to the meaning of our anti-trust laws than seems to be popularly supposed. The terms "unreasonable restraint of trade" and "public interest" are supposed to introduce elements of uncertainty, but they have no application to direct restraints such as price-fixing agreements and the like. They apply only to those indirect restraints which are incidental to an arrangement in and of itself lawful, e. g., an agreement for a limited time and within a limited area not to reengage in a particular business incident to a contract for the sale of such business, or to those incidental restraints resulting from mergers or consolidations of two or more companies. The merger or consolidation being in itself lawful, the question arises under the anti-trust laws where competition is involved whether the resulting incidental restraint of trade is unreasonable and therefore against the public interest. In the case of agreements directly to restrain trade, such as price-fixing agreements, the law deems them unreasonable and contrary to the public interest.

Nathan L. Miller,
General Counsel.

United States Steel Corporation,
General Counsel's Office,
June 7, 1932.

Memorandum.

RE SALES METHODS

I. *Discounts, Drawbacks or Rebates*

Section 2 of the Clayton Act forbids discrimination in price "where the effect of such discrimination may be to substantially lessen competition or tend to create

a monopoly in any line of commerce." However, that does not prevent discrimination in price "on account of differences in the grade, quality, or quantity of the commodity sold" or differences in selling or transportation costs or when made in good faith to meet competition.

It is to be observed that the statute does not apply merely to discriminations which do substantially lessen competition or do create a monopoly, but to those which may have that effect or tendency, and it is only safe to assume that any discrimination except for differences in grade, quality or quantity or selling or transportation costs or to meet competition is within the statute.

Where discounts are allowed to meet competition, the requirement is that it be done in good faith. In other words, that must be the *bona fide* reason and all of the surrounding circumstances should be considered in determining the question of *bona fides*. Where quantity discounts are made, they should have relation to the quantity sold. In other words, they should be comparative and all buyers of like quantities should be treated alike.

In the case of requirement contracts there ought to be a specified minimum sufficiently large to justify the discount allowed. However, in the case of a customer of long standing whose requirements are pretty definitely known, this is not absolutely indispensable, although it is much to be preferred.

Since good faith is an important and sometimes a controlling element, it is indispensable that there be no effort at concealment. That does not mean that one must proclaim his private business contracts to the world. It does mean, however, that methods of accounting and of payment on their face designed to conceal the true nature of the transaction will almost inevitably give rise to the inference that the discount was given for an improper and an unlawful purpose.

II. *Control of Resale Prices*

Any arrangement between seller and buyer of anything but patented articles, under which the seller retains any control whatever over the buyer's resale price, is unlawful. This applies only to cases of sales. When the title has once passed to the buyer he must be free to dispose of the article as he pleases.

III. *Agreements Limiting Buyers from dealing with Others*

Section 3 of the Clayton Act forbids the lease or sale of articles "whether patented or unpatented" or the fixing of a price discount or rebate thereon "on the condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies or other commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale or contract * * * *may be* to substantially lessen competition or tend to create a monopoly in any line of commerce."

Direct agreements with buyers that they shall not buy from competitors are manifestly unlawful. Such agreements necessarily tend to lessen competition or create a monopoly; but manifestly the statute cannot apply to every arrangement the indirect effect of which is to limit purchases by the buyer from others for such is the effect of every sale.

It may be stated as a safe generalization that every direct agreement with buyers that they shall not purchase from others is unlawful.

However, contracts which merely have that effect are not *ipso facto* unlawful; otherwise every sale would be unlawful. The ordinary and customary contracts entered into in good faith for a legitimate purpose will not be declared unlawful merely because of a possible tendency unless in fact they do substantially lessen competition or create monopolies.

IV. *Requirement Contracts*

The necessary effect of a requirement contract is to prevent the buyer from purchasing from others, and it may be urged with some plausibility that that is the same as a sale on the express condition that the buyer will not purchase from others. The point has not been adjudicated, but the better reason supports the view that such contracts are not inherently unlawful. The test of each will, therefore, depend upon its particular circumstances. If made for the purpose and with the effect of lessening competition or creating a monopoly they are unlawful. If made for the purpose of promoting the legitimate interests of buyer and seller in the normal and customary manner, they will not be unlawful merely because a buyer who has supplied his requirements will not normally purchase from others.

As hereinbefore stated, where special discounts are allowed on requirement contracts, a definite minimum sufficiently large to support the discount ought, if possible, to be stated.

Requirement contracts may be unenforcible for various reasons, such as lack of definiteness, mutuality and the like. This memorandum deals only with the question of legality under the anti-trust laws. The conclusion is that they may be entered into.

The shorter the term of such contracts, the safer they are from legal attack. In other words, there is competition on the expiration of the contract just as on the individual sale. A single contract might be unobjectionable, whereas a sufficient number of them, especially for long terms, to tie up a major or even a considerable part of the market, might be held to be evidence of an attempt to monopolize.

Each case will be judged by its own facts. Wherefore no such contract should be made except after the careful scrutiny and approval of counsel.

V. *Agencies, Dealers and Distributors*

(a) *Agencies.*—The agent stands in the shoes of his principal and it is permissible for the principal to do through an agent whatever he can do directly. No one is obliged to sell to another unless he chooses to do so. No one is obliged to sell for any price that does not suit him. No one is obliged to handle the products of his competitor. It is therefore lawful for the principal to agree with a bona fide agent that he shall sell only at prices fixed by the principal or to purchasers designated by the principal and that he will not handle the products of others.

It is to be understood, of course, that a mere form of agency contract cannot be used as a subterfuge to conceal an actual sale with unlawful restrictions imposed upon the buyer.

(b) *Dealers and Distributors.*—It is permissible to sell to a single dealer or distributor in a given territory and to protect distributors by classifying customers as jobbers, retailers, consumers, with different prices to each.

From what has already been said, it is manifest that it is not permissible to fix the re-sale prices of the distributor or dealer or to prevent them by agreement from handling the goods of others. That can only be done by establishing agencies.

Profits on direct sales in the territory of an exclusive distributor or dealer may be allowed such dealer or distributor for legitimate reasons to promote trade, but all such arrangements should have the scrutiny of counsel.

Wherever agencies are created there should be authority of the State to do business.

VI. *Consignment Contracts*

Consignment contracts may be employed (1) to retain title in the goods as a protection against the possible creditors of the consignee, (2) to establish agencies.

Whether such contracts are agency or sales contracts will depend upon their terms. Though in terms an agency contract, if they contain many provisions usual in sales contracts and unusual in agency contracts, the courts may look through the form to the substance and hold them to be sales contracts, especially if they contain resale price provisions or provisions restricting the consignee from dealing with others.

It is to be understood that any plan or arrangement to monopolize is unlawful. Tying up all or substantially all of the agencies of distribution in a given territory, whether through agency arrangements, requirement or consignment contracts or otherwise, may be unlawful for monopolizing.

All such contracts should receive the careful scrutiny of counsel.

NATHAN L. MILLER,
General Counsel.

"EXHIBITS Nos. 1409–1417" are included in Hearings, Part 26.

"EXHIBIT No. 1418" is included in Hearings, Part 27.

"EXHIBITS No. 1419–1421 are included in Hearings, Part 19."

"EXHIBIT No. 1422" is included in Hearings, Part 16.

EXHIBIT No. 1423

[Prepared by Department of Justice]

BASE PRICE OF HOT ROLLED SHEETS, PITTSBURGH

BY MONTHS 1921-1939 INCLUSIVE

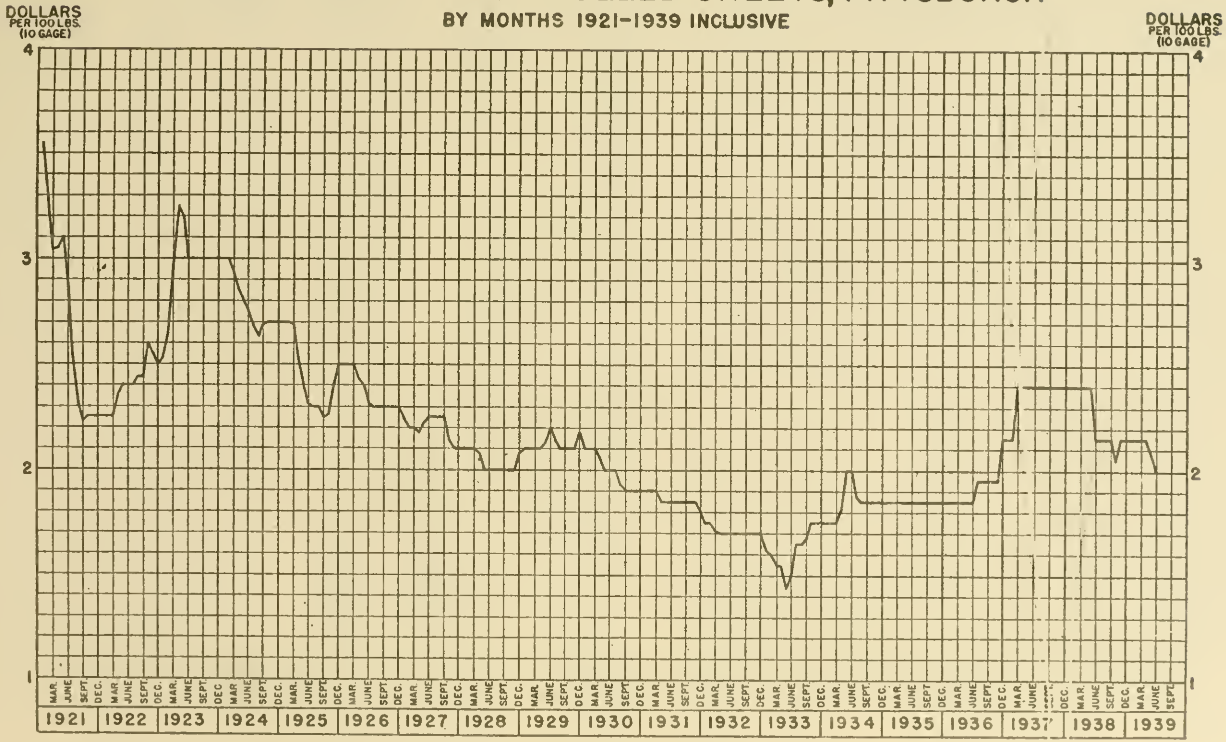

EXHIBIT NO. 1424

[Prepared by Department of Justice]

BASE PRICE OF BLACK PLATE FOR TINNING, PITTSBURGH

1926-1939

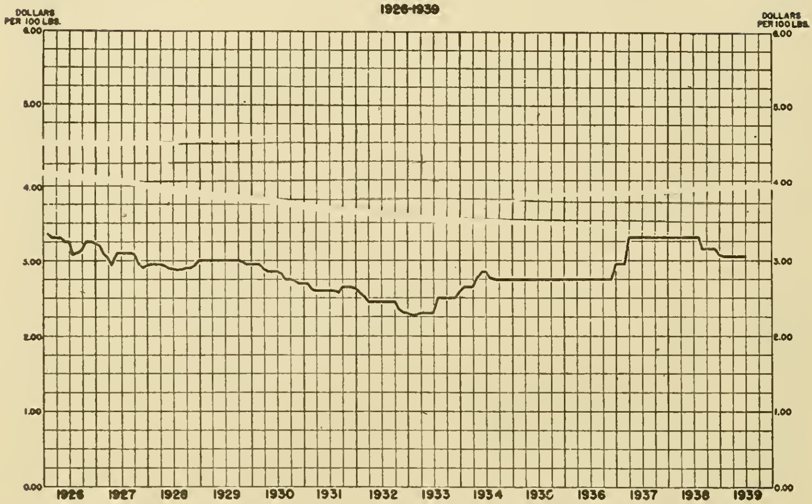

EXHIBIT NO. 1425

[The letter below from Charles R. Hook, President, The American Rolling Mill Company, to A. A. Berle, Jr., was referred by Mr. Berle to Senator O'Mahoney]

THE AMERICAN ROLLING MILL CO.
Middletown, Ohio
CHARLES R. HOOK, *President*

SEPTEMBER 8, 1938.

DR. A. A. BERLE, JR.
c/o Columbia University,
New York, N. Y.

MY DEAR DR. BERLE: I have read with a great deal of interest your memorandum of suggestions to the Temporary National Economic Committee. It is very gratifying to note that you are urging a careful and thorough study upon the part of the Temporary National Economic Committee before drawing any conclusions.

Since 1922 I have made a number of trips to England, as we have maintained there an organization of some size in connection with our business interests in that country. Since 1927 we have assisted in the management of one of the very important British steel companies, aside and apart from our activities in selling our own products in that country.

As you probably know, the American Rolling Mill Company developed and introduced the continuous sheet rolling process in this country. A large plant operating under our patent license is just being put into operation at Ebbw Vale in South Wales.

In section three, part three of your memorandum under the heading "The Necessity of Protecting Capital Investment," the following statement appears:

> "The C. I. O. did not resist the introduction of the rolling machine in the steel district, though inevitably the effect must be to throw out of work a great many steel employees, who will not be replaced through employment in the manufacture of rolling mill machinery."

It may interest you to know that a study which we made last year shows that since the introduction of the continuous sheet and strip rolling process, the number of men employed in rolling and processing steel sheets and strips has actually

been largely increased. The reason for this I think is obvious if we study what has taken place since the introduction of this process.

The average price which we received for all of the sheets and strips which we sold in the year 1923 was $100.15 per ton. The first continuous mill, which was built at our Ashland, Kentucky, plant began operations in the early part of 1924. The average price which we received for our goods in that year was $95.51 per ton, and, while as you know, manufactured goods in general increased in price between 1923 and 1929, the price of sheets and strips made by the continuous process continued downward each year, and in 1929 we received an average of $73.87 per ton for our product.

The price continued to decline until in 1933 the average price we received was $45.98 per ton. Heavy increases in cost, due largely to the general heavy wage increases throughout all industry, necessitated increases in price, and our average price for the year 1937 was $66.69.

To illustrate more clearly how the reduction in cost was passed on to the public, I am attaching hereto an exhibit marked "A" showing the price per 100 pounds we received for an automobile fender sheet .0375 in thickness, 39" in width and 80½" in length in 1923; what we received for that same sheet in 1929; and what we received for the same sheet at the end of 1937. The quoted price at the present time is $3.10 per hundred weight, which is $73.00 per ton below the 1923 price and $34.00 per ton below the 1929 price.

You will note that between 1923 and the end of 1937 there was a reduction of $57.00 a ton in the price of automobile fender steel.

Due to the continuous hot and cold reduction process, we have been able to produce a quality of steel sheet that could not and cannot today be produced by any method or combination of methods outside of the continuous process which we developed.

As a result of the lower price and greatly improved quality of sheet steel, brought about by the continuous process, the market for sheet steel products has been greatly widened, creating a greatly increased demand and thereby necessitating increased production of steel sheets under the same general manufacturing business conditions.

While the number of men required per ton of output was greatly reduced in the actual rolling process, the increase in demand and thereby in production, required a large increase in the number of men required to process the rolled material, with the result that the total number of men employed is in excess of the number which would be employed under the old conditions and after allowing for the normal growth of the industry.

I am attaching hereto another interesting exhibit marked "B", which shows the minimum hourly wage rate which was in existence in our plants in each of the years 1923 to 1938, inclusive. There is also shown on this exhibit the average earnings, both hourly and annual, in our plants and in the industry as a whole beginning with 1929 and including 1937. I do not have our 1938 figures to date.

Please note that while there was an average reduction in the selling price of all of our products of $7.18 per ton between 1929 and 1937, the average hourly rate paid our employees rose from 65½¢ per hour in 1929 to 97.5¢ per hour in 1937, and that the actual annual average earnings of all our employees rose from $1601 in 1929 to $1937 in 1937. If allowance were made for the difference in cost of living between 1929 and 1937, the real earnings for 1937 would have averaged over $2000 per annum.

Earlier in this letter I mentioned our business interests in England and our association with English manufacturers. This experience and my recent studies as a member of the Commission appointed by the President to investigate Industrial Relations in England, has impressed me with the difference in the way we have generally attempted to make changes affecting our industrial system.

As you know, over there when an important change or study is contemplated, a royal commission is generally appointed with an outstanding, able and impartial chairman, together with equal numbers of parties in interest. Plenty of time is taken to make a thorough study and investigation before conclusions are drawn by either the commission or the government.

No sensible industrialist would contend that there must not be certain proper regulation of corporate activities; however, we cannot peg wages or continue to increase wages if management is denied the right of group cooperation with respect to prices.

In England the right of employers to cooperate with respect to price and allocation of business is not denied and, therefore, there is greater opportunity for employers to cooperate with employee organizations with respect to wages, and

the public is protected against the combination of employer and employee organizations through the operation of the Import Advisory Committee.

Please do not misunderstand me. I am not advocating the British system for the United States. I have simply brought these several matters to your attention to indicate the many factors that must be taken into consideration and how carefully the whole field must be studied if Senator O'Mahoney's Committee is to make a report that will be of real value in helping to create a situation that will encourage and not destroy individual and corporate initiative and that will raise and not lower the standard of living of the average citizen.

I think you have made a valuable contribution by setting up a stop, look and listen warning.

We have produced better goods at lower costs, which in turn has raised the purchasing power of the average worker's time in this country far above that of any other country in the world.

My observations and close association with workers and supervisors over a period of 40 years in business, leave no doubt in my mind that these conditions are the result of our system of rewarding individual ability, initiative, hard work and thrift, through the private enterprise system operated for profit.

I always have been and am today interested in any plan that will permanently raise the standard of living of our people. I am convinced that if we take away the hope of reward for ability, initiative, hard work and thrift we will lower instead of raise our standard of living. It is my firm belief that higher standards of living and continuity of prosperous industrial conditions go hand in hand.

Please pardon the length of this letter. I started out to comment only on the particular sentence in section three of your memorandum; however, all of the factors I have mentioned in this letter relate to that sentence.

Very sincerely yours,

(Signed) CHARLES R. HOOK

CRH H.

P. S.—By the way, there was no C. I. O. in existence when the continuous method was introduced. The C. I. O. was not organized until about 1935.

C. R. H.

"A"

.0375—39″×80½″

AUTOMOBILE FENDERS

1923

$5. 35	22 Ga. base Auto Body
. 15	Ga. Deduction
5. 20	20 Ga.
75	Extra Deep Drawing Fender Quality
20	Width
10	Oil
$6. 25	

1929

$4. 00	20 Ga. base Auto Body
. 50	Deep Drawing
. 20	Width
. 10	Oil
$4. 80	

1937 (4th quar)

$3. 45	20 Ga. base Cold Finish Mill Run
. 10	Oil
3. 55	
. 15	Deduction for quantity when 150 tons are ordered for shipment at one time
3. 40	

1923—$6. 25 per 100#=$135. 00 per ton
1929— 4. 80 " " = 96. 00 " "
1937— 3. 40 " " = 78. 00 " "
Sept. 1938— 3. 10 " " = 62. 00 " "
Sept. 1939— 2. 95 " " = 59. 00 " "

"B"

Average Earnings

	Minimum Wage Rate		Armco		Nat. Ind. Con. Bd. Cost of Living	Real Annual Earnings	Armco Sheet Selling Price
	Armco		Hour	Actual Annual			Net Ton
1923	33.0¢						$100.15
	37.0	4-29-23					
1924	37.0						95.51
1925	37.0						83.34
1926	37.0						83.18
1927	37.0						79.17
1928	37.0						70.24
1929	37.0		65.5	1601	100.0	1601	73.87
1930	37.0		64.1	1410	96.7	1458	68.74
1931	37.0		62.6	1152	87.2	1321	58.89
	34.3	10-4-31					
1932	33.0	1-1-32	53.9	790	77.9	1014	51.83
	30.0	6-5-32					
1933	45.0	7-16-33	62.5	1134	74.9	1514	45.98
1934	47.5	4-1-34	76.1	1231	79.4	1550	53.66
1935	47.5		78.8	1536	82.6	1860	54.11
1936	52.5	11-15-36	80.5	1708	84.8	2014	55.29
1937	62.5	3-16-37	96.1	1774	88.5	2005	66.69
1938	62.5		98.6	1398	86.4	1618	64.35
1939	62.5		99.1	1850	85.0	2176	61.06—9 mos

EXHIBIT No. 1426

[Submitted by Chas. R. Hook, pres., Amer. Rolling Mill Co.]

Estimated steel companies' earnings on common stock, 10-year period—1929 thru 1938

[Italic figures denote loss]

Company	Year	Est. Earnings on Common Stock	Estimated Ave. Common Stockholders' Investment [1]	% Earned on Stockholders' Investment	Est. Earnings Per Share of Common Stock	Estimated Average No. of Com. Shares
Armco	1929	$6,059,250	$59,014,326	10.27%	$4.36	1,389,909
	1930	53,125	65,552,201	.08%	.03	1,618,715
	1931	*3,217,702*	63,111,454	*5.10%*	*1.88*	1,709,124
	1932	*2,148,222*	59,305,402	*3.62%*	*1.26*	1,709,226
	1933	*789,669*	57,002,180	*1.39%*	*.46*	1,709,295
	1934	849,986	55,999,917	1.52%	.50	1,709,380
	1935	4,193,635	58,245,903	7.20%	2.41	1,743,176
	1936	6,325,748	71,150,157	8.89%	2.73	2,319,865
	1937	7,314,381	82,989,763	8.81%	2.55	2,868,517
	1938	*3,332,903*	82,875,419	*4.02%*	*1.16*	2,868,565
Total Earnings—10 Years		$15,307,629				
Average Per Year		$1,530,763	$65,657,465	2.33%	$.78	1,964,577

Average Stockholders' Investment is average of investment at beginning and end of each year.

Estimated steel companies' earnings on common stock, 10-year period—1929 thru 1938—Continued

[Italic figures denote loss]

Company	Year	Est. Earnings on Common Stock	Estimated Ave. Common Stockholders' Investment	% Earned on Stockholders' Investment	Est. Earnings Per Share of Common Stock	Estimated Average No. of Com. Shares
Bethlehem	1929	$35,242,980	$380,948,244	9.25%	$15.50	2,273,740
	1930	16,843,406	456,858,924	3.69%	5.26	3,200,000
	1931	*6,779,255*	446,916,798	*1.52%*	*2.12*	3,200,000
	1932	*25,984,431*	425,470,205	*6.11%*	*8.12*	3,200,000
	1933	*15,273,723*	403,135,843	*3.79%*	*4.77*	3,200,000
	1934	*5,986,638*	390,707,957	*1.53%*	*1.87*	3,200,000
	1935	*2,245,956*	383,455,352	*.59%*	*.70*	3,194,858
	1936	6,663,382	373,394,120	1.78%	2.09	3,194,314
	1937	24,348,500	369,737,408	6.59%	7.63	3,189,989
	1938	*2,220,857*	372,737,842	*.60%*	*.70*	3,185,114
Total Earnings—10 Years		$24,607,408				
Average Per Year		$2,460,741	$394,575,868	.62%	$.79	3,103,802
Inland	1929	$11,712,374	$62,991,697	18.59%	$9.76	1,200,000
	1930	6,498,967	67,779,604	9.59%	5.42	1,200,000
	1931	1,263,599	66,713,960	1.89%	1.05	1,200,000
	1932	*3,320,958*	61,714,450	*5.38%*	*2.77*	1,200,000
	1933	166,693	55,726,537	.30%	.14	1,200,000
	1934	3,729,890	53,011,104	7.04%	3.11	1,200,000
	1935	9,417,818	62,413,286	15.09%	7.47	1,260,000
	1936	12,800,545	76,471,852	16.74%	8.71	1,469,500
	1937	12,665,317	86,724,229	14.60%	8.14	1,555,213
	1938	4,916,203	92,808,391	5.30%	3.12	1,573,950
Total Earnings—10 Years		$59,850,448				
Average Per Year		$5,985,045	$69,331,526	8.63%	$4.58	1,305,866
Jones & Laughlin	1929	$16,738,733	$131,594,218	12.72%	$29.04	576,320
	1930	4,983,314	138,269,277	3.60%	8.65	576,320
	1931	*6,393,432*	134,357,721	*4.76%*	*11.09*	576,320
	1932	*12,020,121*	123,435,173	*9.74%*	*20.86*	576,320
	1933	*8,581,020*	112,001,665	*7.66%*	*14.89*	576,320
	1934	*6,861,345*	103,805,906	*6.61%*	*11.91*	576,320
	1935	*4,508,689*	98,846,522	*4.56%*	*7.82*	576,320
	1936	19,627	94,734,712	.02%	.03	576,320
	1937	678,826	92,618,525	.73%	1.18	576,320
	1938	*9,989,931*	88,003,809	*11.35%*	*17.33*	576,320
Total Earnings—10 Years		*$25,934,038*				
Average Per Year		*$2,593,404*	$111,118,348	*2.33%*	*$4.50*	576,320
National	1929	Incorporated November 7, 1929				
	1930	8,415,822	$100,240,646	8.40%	$3.91	2,149,735
	1931	4,443,324	104,161,827	4.27%	2.06	2,156,832
	1932	1,662,920	103,001,331	1.61%	.77	2,156,832
	1933	2,812,407	103,232,134	2.72%	1.30	2,156,832
	1934	6,050,720	105,763,592	5.72%	2.81	2,156,832
	1935	11,136,452	110,134,246	10.11%	5.17	2,155,777
	1936	12,541,842	111,474,550	11.25%	5.80	2,156,977
	1937	17,801,893	115,946,749	15.35%	8.22	2,166,477
	1938	6,661,652	124,527,910	5.35%	3.07	2,167,877
Total Earnings—9 Years		$71,527,032				
Average Per Year		$7,947,448	$109,001,606	7.29%	$3.68	2,158,241
Otis	1929	$2,868,977	$14,279,070	20.09%	$3.41	841,002
	1930	63,492	14,728,357	.43%	.08	841,002
	1931	*2,376,580*	12,522,428	*18.99%*	*2.83*	841,002
	1932	*3,635,393*	8,258,356	*44.02%*	*4.32*	841,002
	1933	*2,314,768*	4,400,171	*52.61%*	*2.75*	841,002
	1934	*244,349*	3,215,621	*7.60%*	*.29*	841,002
	1935	1,423,391	3,893,760	36.56%	1.69	841,002
	1936	1,347,299	5,390,074	25.00%	1.58	853,534
	1937	1,538,327	8,288,925	18.56%	1.72	896,389
	1938	*1,985,650*	9,644,144	*20.59%*	*2.20*	901,320
Total Earnings—10 Years		*$3,315,254*				
Average Per Year		*$331,525*	$8,692,889	*3.81%*	*$.39*	853,826

Estimated steel companies' earnings on common stock, 10-year period—1929 thru 1938—Continued

[Italic figures denote loss]

Company	Year	Est. Earnings on Common Stock	Estimated Ave. Common Stockholders' Investment	% Earned on Stockholders' Investment	Est. Earnings Per Share of Common Stock	Estimated Average No. of Com. Shares
Republic	1929					
	1930	Consolidation consumated April 8, 1930.				
	1931	*$12,607,800*	$148,222,881	*8.51%*	*$6.45*	1,953,920
	1932	*14,834,843*	133,841,841	*11.08%*	*7.58*	1,956,981
	1933	*7,622,900*	122,995,839	*6.20%*	*3.89*	1,956,981
	1934	*7,033,076*	116,559,531	*6.03%*	*3.53*	1,992,064
	1935	1,978,350	130,974,768	1.51%	.71	2,800,000
	1936	7,175,519	150,943,316	4.75%	1.76	4,083,389
	1937	6,632,745	175,376,506	3.78%	1.24	5,363,343
	1938	*10,409,228*	191,735,594	*5.43%*	*1.86*	5,593,179
Total Earnings—8 Years		*$36,721,233*				
Average Per Year		*$4,590,154*	$149,045,260	*3.08%*	*$1.43*	3,212,482
U. S. Steel	1929	$172,372,383	$1,573,406,764	10.96%	$21.19	8,132,840
	1930	79,201,894	1,726,316,317	4.59%	9.12	8,687,435
	1931	*12,181,536*	1,762,447,592	*.69%*	*1.39*	8,703,252
	1932	*96,395,381*	1,680,367,748	*5.74%*	*11.08*	8,703,252
	1933	*61,720,799*	1,590,297,435	*3.88%*	*7.09*	8,703,252
	1934	*46,887,456*	1,530,060,600	*3.06%*	*5.39*	8,703,252
	1935	*24,072,969*	1,362,480,428	*1.77%*	*2.77*	8,703,252
	1936	25,363,679	1,232,378,645	2.06%	2.91	8,703,252
	1937	69,724,681	1,281,097,868	5.44%	8.01	8,703,252
	1938	*32,937,131*	1,166,826,666	*2.82%*	*3.78*	8,703,252
Total Earnings—10 Years		$72,467,365				
Average Per Year		$7,246,737	$1,468,935,754	.49%	$.84	8,644,629
Wheeling	1929	5,352,384	$55,299,180	9.68%	$13.30	402,301
	1930	*2,392*	55,646,015	*.01%*	*.01*	402,301
	1931	*5,237,174*	44,981,597	*11.64%*	*13.51*	387,691
	1932	*5,559,392*	33,217,971	*16.74%*	*14.38*	386,514
	1933	*2,569,212*	29,148,432	*8.81%*	*6.65*	386,514
	1934	*1,755,580*	27,663,759	*6.35%*	*4.52*	387,635
	1935	1,214,806	28,345,398	4.29%	3.13	387,767
	1936	1,826,279	29,239,916	6.25%	4.71	388,070
	1937	2,299,863	34,067,367	6.75%	4.84	475,343
	1938	*1,441,686*	38,213,264	*3.77%*	*2.56*	563,212
Total Earnings—10 Years		*$5,872,104*				
Average Per Year		*$587,210*	$38,292,426	*1.53%*	*$1.41*	416,735
Youngstown	1929	$20,739,174	$123,506,193	16.79%	$17.28	1,200,000
	1930	6,211,133	129,840,831	4.78%	5.17	1,200,000
	1931	*7,865,900*	122,907,367	*6.40%*	*6.55*	1,200,000
	1932	*14,097,783*	108,411,651	*13.00%*	*11.75*	1,200,000
	1933	*9,167,901*	96,247,864	*9.53%*	*7.64*	1,200,000
	1934	*3,490,119*	89,871,172	*3.88%*	*2.91*	1,200,000
	1935	772,521	89,055,847	.87%	.64	1,200,000
	1936	9,739,501	96,890,408	10.05%	7.82	1,246,188
	1937	11,365,649	114,465,352	9.93%	7.02	1,618,896
	1938	*1,483,934*	123,442,682	*1.20%*	*.89*	1,675,008
Total Earnings—10 Years		$12,722,341				
Average Per Year		$1,272,234	$110,377,341	1.15%	$.98	1,294,009

Common Stockholders' Investment includes following:
- Common stock less stock held in Treasury.
- Contingent and insurance reserves (as nearly as could be ascertained).
- Surplus, less deferred charges.
- Deduction of estimated preferred dividends in arrears.

[In ink:]
- 10 Year Period—8 Co. Earnings on Com. Stock $149,833,795
- 9 Year Period—9 Co. *Loss* on Com. Stock *$49,725,428*

GEH/AB.
10/30/39.

Summary of Estimated % Return on Ave. Common Stockholders' Investment and Estimated Earnings Per Share of Common Stock 10 Year Period—1929 Thru 1938

ESTIMATED EARNINGS PER SHARE OF COMMON STOCK

[Italic figures denote loss]

Year	Armco	Bethlehem	Inland	Jones & Laughlin	National	Otis	Republic	U. S. Steel	Wheeling	Youngstown
1929	$4.36	$15.50	$9.76	$29.04	--------	$3.41	--------	$21.19	$13.30	$17.28
1930	.03	5.26	5.42	8.65	$3.91	.08	--------	9.12	*.01*	5.17
1931	*1.88*	*2.12*	1.05	*11.09*	2.06	*2.83*	*$6.45*	*1.39*	*13.51*	*6.55*
1932	*1.26*	*8.12*	*2 77*	*20.86*	.77	*4.32*	*7.58*	*11.08*	*14.38*	*11.75*
1933	*.46*	*4.77*	.14	*14.89*	1.30	*2.75*	*3.89*	*7.09*	*6.65*	*7.64*
1934	.50	*1.87*	3.11	*11.91*	2.81	*.29*	*3.53*	*5.39*	*4.52*	*2.91*
1935	2.41	*.70*	7.47	*7.82*	5.17	1.69	.71	*2.77*	3.13	.64
1936	2.73	2.09	8.71	.03	5.80	1.58	1.76	2.91	4.71	7.82
1937	2.55	7.63	8.14	1.18	8.22	1.72	1.24	8.01	4.84	7.02
1938	*1.16*	*.70*	3.12	*17.33*	3.07	*2.20*	*1.86*	*3.78*	*2.56*	.89
Ave. Per Year	$ .78	$ .79	$4.58	*$4.50*	$3.68	*$ .39*	*$1.43*	$ .84	*$1.41*	$ .98

ESTIMATED % RETURN ON AVE. COMMON STOCKHOLDERS' INVESTMENT

Year	Armco	Bethlehem	Inland	Jones & Laughlin	National	Otis	Republic	U. S. Steel	Wheeling	Youngstown
1929	10.27%	9.25%	18.59%	12.72%	--------	20.09%	--------	10.96%	9.68%	16.79%
1930	.08%	3.69%	9.59%	3.60%	8.40%	.43%	--------	4.59%	*.01%*	4.78%
1931	*5.10%*	*1.52%*	1.89%	*4.76%*	4.27%	*18.99%*	*8.51%*	*.69%*	*11.64%*	*6.40%*
1932	*3.62%*	*6.11%*	*5.38%*	*9.74%*	1.61%	*44.02%*	*11.08%*	*5.74%*	*16.74%*	*13.00%*
1933	*1.39%*	*3.79%*	.30%	*7.66%*	2.72%	*52.61%*	*6.20%*	*3.88%*	*8.81%*	*9.53%*
1934	1.52%	*1.53%*	7.04%	*6.61%*	5.72%	*7.60%*	*6.03%*	*3.06%*	*6.35%*	*3.88%*
1935	7.20%	*.59%*	15.09%	*4.56%*	10.11%	36.56%	1.51%	*1.77%*	4.29%	.87%
1936	8.89%	1.78%	16.74%	.02%	11.25%	25.00%	4.75%	2.06%	6.25%	10.05%
1937	8.81%	6.59%	14.60%	.73%	15.35%	18.56%	3.78%	5.44%	6.75%	9.93%
1938	*4.02%*	*.60%*	5.30%	*11.35%*	5.35%	*20.59%*	*5.43%*	*2.82%*	*3.77%*	*1.20%*
Ave. Per Year	2.33%	.62%	8.63%	*2.33%*	7.29%	*3.81%*	*3.08%*	.49%	*1.53%*	1.15%

10 YEAR PERIOD—1929–1938

10 Year-Ave. Per Year	2.33%	.62%	8.63%	*2.33%*	--------	*3.81%*	--------	.49%	*1.53%*	[1] 1.15%

9 YEAR PERIOD—1930–1938

9 Year-Ave. Per Year	1.53%	*.29%*	7.60%	*4.32%*	7.29%	*8.33%*	--------	*.76%*	*3.39%*	[2] *.81%*

10 Year Period

8 Co.—10 Yr. Ave. Com. Stock Invest	$2,266,981,617
8 Co.—10 Yr. " Earn. on Com. Stock	$14,983,381
8 Co.—10 Yr. " % Return	.66%
(In ink:) Total 10 year earnings on common stock for the 8 companies (which exclude National and Republic)	$149,833,795

9 Year Period

9 Co.—9 Yr. Ave. Com. Stock Invest	$2,381,743,728
9 Co.—9 Yr. " Earn. on Com. Stock	*$5,525,047*
9 Co.—9 Yr. " % Return	*.23%*
(In ink:) Total 9 year *loss* on common stock for the 9 companies (which exclude Republic)	*$49,725,428*

[1] Ave. 8 Companies = .66%.
[2] Ave. 9 Companies = *.23%*.
GEH/AB.
10/30/39.

EXHIBIT No. 1427 [1]

(Penned notation:) CHR Noted PJC 2/6/39.

SOUTH CHESTER TUBE CO.,
Pittsburgh, Pa., February 3, 1939.

Subject: Gulf River Shipments.

Mr. C. H. ROBERTS,
Gen. Sales Manager.

DEAR HARRY: The "Devil" has broken loose in the pipe district here yesterday and today, due to the action of our good friend Mr. Weiss. As you know he is a pretty smart boy, even though he finds it suitable for his purpose to appear very dumb at times.

When the barge rates went into effect for pipe at Memphis and Houston, he started to work on a proposition which came to a climax here yesterday and certainly will have wide ramifications.

The Gulf, as we understand it, have purchased two barges and a small river boat. Weiss offered an order for a barge load of Seamless to Jones & Laughlin, the barge to be loaded alongside their loading racks on the Ohio River here, and also a barge load order to Spang Chalfant, under the same conditions, the pipe to be billed f. o. b. barge siding, which as you know takes only a 2¾¢ per cwt. switching charge in freight.

When the National Tube Company heard of this, they just "Raised Cain" and, in some way or other, stopped J. & L. from accepting this order, and likewise Spang Chalfant. The National Tube Company stood hard and fast by their policy, that no pipe would be quoted other than f. o. b. destination, or f. o. b. Houston or Memphis stock.

We mentioned this matter to you on the telephone, but since then we have had about an hour and a half's session with Mr. Weiss, in which he did all the talking and we said little or nothing. He wanted to know why he could not get pipe quoted f. o. b. barge siding, provided it was their own barge. We naturally said nothing of an incriminating nature and simply stated that we could take no part in this matter whatever, as we were not on the river and therefore totally disinterested. Our reply to his question as to why no pipe mill was permitted to quote on the basis above mentioned, was that we simply stated that as long as we had been in this business, we had never known of any manufacturer quoting f. o. b. mill.

Weiss advised us that yesterday they had a meeting called in Mr. Bothwell's office and, present at that meeting were: Mr. Weiss, the Traffic Department of the Gulf, Mr. McConnor, Sales Manager of the National Tube Company and the Gulf's legal staff. Dave tells us today that upon the opinion of their Legal Department, they may enter suit against every mill on the river which refused to quote them f. o. b. barge siding, the Gulf's legal staff contending that the river is not controlled by the Interstate Commerce Commission, that the material is to move in their own equipment subject to their responsibility and, therefore, the action of the pipe mills was in restraint of trade.

Dave also advised that our name was brought up in this meeting yesterday, but he said we could not figure in this whatever, as we were not on the Pittsburgh rivers.

It is our understanding that he wants this barging done only because of the deep wells Gulf has in contemplation in the Delta area, mainly Louisiana.

We touched upon this in a conversation with John Anderson yesterday and he was very cagey about the whole thing. He stated he did not believe any of the mills would go along with it.

However, J. & L. did accept one barge order, and we have not heard the last of this by any means.

We have nothing to fear in this National business, but feel you should be posted on everything that we learn.

Very truly yours,

(In ink:) FRANCIS H. GIBSON,
District Sales Manager.

FHG/G.

[1] See p. 10831, supra, for statement by Mr. Feller as to documents taken from the files of the South Chester Tube Co.

Mr. F. H. Gibson: Feb. 7, 1939.

Thanks very much for this interesting information, and we are just wondering what will happen next.

Very truly yours,

R'mm. G. S. M.

"Exhibit No. 1428", introduced on p. 10846, is on file with the Committee.

"Exhibit No. 1429", introduced on p. 10847, is on file with the Committee.

"Exhibit No. 1430", introduced on p. 10850, is on file with the Committee.

"Exhibit No. 1431", introduced on p. 10853, is on file with the Committee.

Exhibit No. 1432

(Crossed-out matter in linetype; new matter in brackets:) ~~Special~~ [Reg] Delivery [to Pgh.]

Enc.

South Chester Tube Co.,
Chester Pa., August 9, 1938.

Mr. Francis H. Gibson,
Daniel Boone Hotel, Charleston, W. Va.

Dear Francis: Received your wire from Centralia and am enclosing several copies of our Standard and South Penn Casing list. In reply to your question as to which list we will make effective in West Virginia, I hope it will be possible to eventually establish our prices.

I talked to Henry on Friday, but evidently did not get very far with my argument, but I told him that it was my impression from past conversations which you will bear out, that he was terribly afraid to make prices too low for fear of bringing down the house on his head, and I told him that apparently he had thrown discretion to the winds as there does not seem to be any good reason for making the South Penn list as low as he has done. He intended to be away over the week-end and said he might call today and discuss the matter further with me, and if anything develops after this letter is mailed, I will wire you.

Steele states that Spang, has adopted Wheeling's list for the popular sizes which, of course, will make our field stock prices higher than our competitors, and we may have to do something about that, but Spang is using our list on the unpopular sizes shown on page 2 which leads me to believe that these prices are more in line with general ideas of the industry, and I intend to point this out to Henry, hoping that he will consider revising his list.

I do not know what route you would take in returning from Charleston, but am wondering whether it would be convenient to stop off at Wheeling on the way back to go into this matter further with Henry provided I am unable to get anywhere with him. He admits that the prices quoted do not permit of any profit and I can't understand why they deliberately quote prices so low when it apparently is possible to get higher prices in West Virginia. If you feel it necessary, I shall be glad to have you telephone me before going to Wheeling.

We received this morning United's order #9985 for 3385 feet 8-⅝"O. D. 20# 11½ thread Casing which is a new weight for that district. Our list is $89.90, and Wheeling's list is $77.90, and due to this wide difference in price, we hesitate to enter the order and prepare for shipment by September 1st until we have the price question straightened out. Our list on full operation would allow us to just exactly break even, but on present operation, our loss is at least $5.00 per ton. Our list would net us $82.30 and Wheeling's list would net us $71.00, and to my way of thinking, there is entirely too much difference between the two lists, but due to our high costs, we do not feel that we can consistently reduce them.

If Columbian Carbon Co. is willing to pay our price for the high tensile steel as against the lower price published by Wheeling, that would be fine, but if we are unable to effect a change in Wheeling's list and Columbian is unwilling to pay a higher price, then I will have to discuss it with Mr. Cook for his approval, and I hope that you can get this definitely straightened out while you are in West Virginia so that we can proceed with preparation of the material.

Very yours truly,

(In ink:) C. H. Roberts.
G. S. M.

R'mm.

Exhibit No. 1433

(Pencil notation:) JWL X file.
(Pencil notation:) CHR Looks like good news.
Enc.

South Chester Tube Co.,
Pittsburgh, Pa., August 12, 1938.

Mr. C. H. Roberts,
Gen. Sales Manager:

Regarding previous correspondence concerning lapweld prices of the various mills, we wish to advise that we stopped in Wheeling last week on our way west and spent some time with both Mr. Schaefer and Mr. Strickland.

At that time, they gave me copies of their new lists and, while I did not have a great deal of opportunity while with them to analyze these, I remonstrated quite vigorously about the reduction in prices on the items other than the tonnage group.

Mr. Schaefer said he did not see they could do anything else and exist.

Mr. Schaefer is out of town at the present time, but since returning to Pittsburgh, I find that most of the other mills are after us, in an effort to get our cooperation in insisting that Wheeling bring the prices on the items other than the tonnage group up to the previously announced 2-½%.

Mr. E. N. Smith of the National Supply Company discussed this with me by telephone today and wants me to meet with Mr. Brundred, their Vice President, to go over this matter.

From Mr. Smith, we learned that Mr. Goebel, Vice President of the National Tube Company, was hunting Mr. Schaefer to secure an interview and demand that they revise these prices.

In West Virginia, we found a terrific confusion existed and, yesterday, the first Lapweld List from Spang Chalfant reached the National Supply Company and the customers there. We borrowed one of these and had it photostated and are enclosing a copy.

We left Charleston, unable to quote any definite prices, for while we could not find anyone who had as yet received a copy of Wheeling's list in the Charleston District, all of the mill representatives who have been there since the price reduction, have informed various customers they would meet any lapweld competitive price. We simply had to say we could not definitely quote as yet, nor furnish lists. It is our hope that the other mills will be able to have Wheeling recall these prices.

Very truly yours,

(In ink:) C C to Mr. Cook 8/13.

(In ink:) Francis H. Gibson,
District Sales Manager.

FHG/G.

P. S.—Since dictating the above, I have reached Mr. Strickland of Wheeling by telephone, who advised that he had already talked with you today.

From Mr. Strickland's conversation, I learned that they had already been with Goebel and that Wheeling is now going to revise their previously announced prices.

Mr. Strickland stated you could come to Pittsburgh early next week to go into this matter, and I assured him that I would also do anything I could to help them out of this jam.

FHG/G.

EXHIBIT No. 1434

(Stamped:) Received Aug. 10, 1938—9:45, Pittsburgh.

PITTSBURGH, PA., *August 15, 1938.*

Mr. C. H. ROBERTS,
Gen. Sales Manager:

Replying to yours as above, we left Charleston with the price situation as much in the air as it was when we arrived there.

After having had ample time to analyze Wheeling's lists, we decided to state that we were not prepared to make prices down there at the present time. We found all over the country that no one had received Wheeling's list, but everyone had heard rumors that such a list had been issued, with widely reduced prices.

As we mentioned to you by telephone, on our way west, we spent some time at Wheeling and remonstrated with these people very vigorously. We tried to reach Mr. Schaefer by telephone to see if he would be in Wheeling on our return, but found he was not available and therefore did not stop. As we wrote you Saturday, we learned where he was and that the National Tube Co., Spang, Chalfant, etc. were right after them, and Mr. Strickland advised their prices would be revised upward immediately.

As yet we have no further information on this today, but hope to have a definite story by tomorrow, at which time we will communicate with you at once.

While we know that all of the West Virginia customers much prefer our material to Wheeling's, we must admit with such a wide variation in prices, we could not expect to receive any business. It seems imperative that Wheeling must make an increase, or we will either have to meet their prices or turn down business. In so far as the carload of 8-5/8" O. D. 20# is concerned, we hope you can hold this up for another two or three days, until we find out definitely what Wheeling is going to do.

Incidentally, Mr. Czarniecki of the Byers Company was in our office this morning and we have enlisted his support in trying to have Wheeling see the light in this matter, and frankly, we believe that our efforts here with Mr. Smith of the National Supply Company, have had a great deal to do with getting Wheeling started on the right track again.

We believe by Wednesday, at the latest, Wheeling will have revised their lists and, in the meantime, you may be hearing from them directly.

Very truly yours,

(In ink:) FRANCIS H. GIBSON,
District Sales Manager.

FHG/G.

"EXHIBIT No. 1435," introduced on p. 10865, is on file with the Committee.

"EXHIBIT No. 1436," introduced on p. 10866, is on file with the Committee.

EXHIBIT NO. 1437

(Penned notations:)
CHR then X file.
R saw FJT.
Think brot by GWS from Pgh trip JWL 10/10.

SEPTEMBER 29, 1938.

Memo.

Mr. C. H. ROBERTS.

DEAR HARRY: The matter outlined below is in strict confidence and has been received by the writer, since return of the gentlemen from New York, whom we mentioned by telephone.

Naturally, to gain the end which the other mills wanted, that is: Not to have the National Tube Company quote prices on Seamless material which would meet Lapweld competition, it was very necessary for these other mills to give up something in return. Through the same and another source, we have today checked a second meeting of manufacturers other than the National Tube Company to be held in a few days. As it stands at the moment, the thing resolves itself as follows:

The National Tube Company will leave as they are at the moment the prices for Grade "B" Seamless, which have already been announced. The National Tube Company and all other seamless mills will [dis]continue the manufacture of new Grade "C" and bring the physicals of new Grade "B" considerably higher. This with the new Grade "D" will bring the status back to where it was prior to July 1st, when the whole mess was started.

Youngstown, Spang Chalfant, Jones & Laughlin and Republic Steel will discontinue the manufacture of Lapweld Pipe in Oil Country sizes 10-3/4" O. D and under.

Wheeling Steel, who has already been contacted today, advised that with the present spread between Grade "B" and Lapweld, they were slowly being forced out of business and would only ask that they be allowed to dispose of present stocks of Lapweld on hand.

Bethlehem, who was contacted today, stated they had not made any Lapweld Oil Country material since July 1st. This I doubt, but they have also signified their intentions to discontinue the manufacture of this product.

In so far as the South Chester Tube Company is concerned, as has been stated this afternoon, neither the National Tube nor a meeting of the other mills feel they should take the responsibility of determining ———— [or suggesting] any policy for us to follow, as they would not want to be confronted at Washington, since we make no other product in the way of pipe, and not even any other products manufactured of steel.

We are handing this to Mr. Sweet, and we need not advise that this information is of the most confidential nature.

Prior to the meeting of the mills, other than the National Tube, we are going over this matter with our source of confidential information. This meeting will be held probably Monday or Tuesday of next week and, within an hour after it adjourns, we hope to have exactly what transpired.

NOTE.—Changes and new matter enclosed in brackets.

"EXHIBIT NO. 1438," introduced on p. 10878, is on file with the Committee.

EXHIBIT No. 1439

(Exhibit No. 1)

Statement Showing Fabricated Structural Steel Awards on Jobs of 100 Tons or More covering Fabricated Structural Tonnage Placed for Delivery at Points in the Three Pacific Coast States (California, Oregon and Washington) During the Eighteen Months' Period of January 1, 1938 to June 30, 1939 (See Note "A")

[Tonnages shown are tons of 2000 pounds]

	1st quarter 1938 tonnage	2nd quarter 1938 tonnage	3rd quarter 1938 tonnage	4th quarter 1938 tonnage	1st quarter 1939 tonnage	2nd quarter 1939 tonnage	Full period 1/1/38–6/30/39 totals
1. Awards to "Pacific Coast Independent Fabricators" (as defined in Note "B")	2,764 (27.1%)	3,013 (22.5%)	6,918 (25.5%)	8,895 (18.3%)	14,302 (35.4%)	5,705 (39.6%)	41,597 (27.0%)
2. Awards to "Midwest States and Southern States Independent Fabricators" (as defined in Note "C")	1,988 (19.5%)	450 (3.4%)	3,690 (13.6%)	435 (0.9%)	610 (1.5%)	512 (3.5%)	7,685 (5.0%)
3. Awards to "Atlantic States independent Fabricators" (as defined in Note "D")	2,040 (20.0%)	Nil	348 (1.3%)	Nil	1,300 (3.2%)	Nil	3,688 (2.4%)
4. Awards to "Mill Affiliate Fabricators—Fabrication Point Unknown"—(as defined in Note "E")	3,416 (33.4%)	9,944 (74.1%)	16,163 (59.6%)	39,368 (80.8%)	24,167 (59.9%)	8,219 (56.9%)	101,277 (65.6%)
Totals	10,108	13,407	27,119	48,698	40,379	14,436	154,247 (100.0%)

NOTE "A".—Source of data: "Awards—Structural Steel" as reported currently each week by "The Iron Age."

NOTE "B".—The term "*Pacific Coast Independent Fabricators*" as used herein means Structural Steel fabricators with plants located in California, Oregon or Washington and not known to be owned or controlled by any Steel Rolling Mill interest.

NOTE "C".—The term "*Midwest States and Southern States Independent Fabricators*" as used herein means structural steel fabricators with plants located in the states of Nebraska, Kansas, Oklahoma, Minnesota, Wisconsin, Iowa, Missouri, Arkansas, Louisiana, Illinois, Michigan, Indiana, Ohio, Kentucky, Tennessee, and Alabama, and not known to be owned or controlled by any steel rolling mill interest.

NOTE "D".—The term "*Atlantic States Independent Fabricators*" as used herein means structural steel fabricators with plants located in the states of New York, Pennsylvania, New Jersey, Delaware, Maryland and Virginia and not known to be owned or controlled by any steel rolling mill interest.

NOTE "E".—The term "*Mill Affiliate Fabricators*" as used herein means structural steel fabricators and sales units understood to be affiliated with major steel producers.

(Compiled by Pacific Coast Steel Fabricators' Association pursuant to diretction of and under subpoena from Temporary National Economic Committee).

EXHIBIT No. 1440

(Exhibit No. 2)

Statement Showing Fabricated Structural Steel Awards on Jobs of 100 Tons or More Covering Fabricated Structural Tonnage Placed for Delivery at Points in the States of Arizona, New Mexico, Nevada, Utah, Idaho and Montana During the Eighteen Months' Period of January 1, 1938 to June 30, 1939 (See Note "A")

[Tonnages shown are tons of 2000 pounds]

	1st quarter 1938 tonnage	2nd quarter 1938 tonnage	3rd quarter 1938 tonnage	4th quarter 1938 tonnage	1st quarter 1939 tonnage	2nd quarter 1939 tonnage	Full period 1/1/38–6/30/39 totals
1. Awards to "Pacific Coast Independent Fabricators" (as defined in Note B-1)	Nil	Nil	Nil	Nil	Nil	285 (17.3%)	285 (2.4%)
1-A. Awards to "Intermountain States Independent Fabricators" (as defined in Note B-2)	Nil	Nil	Nil	Nil	310 (5.5%)	125 (7.6%)	435 (3.7%)
2. Awards to "Midwest States and Southern States Independent Fabricators" (as defined in Note "C")	300 (22.2%)	200 (22.7%)	535 (70.9%)	855 (52.9%)	1,968 (35.2%)	1,115 (67.8%)	4,973 (42.0%)
3. Awards to "Atlantic States Independent Fabricators" (as defined in Note "D")	Nil	Nil	100 (13.2%)	Nil	Nil	Nil	100 (0.8%)
4. Awards to "Mill Affiliate Fabricators—Fabrication Point Unknown"—(as defined in Note "E")	1,050 (77.8%)	680 (77.3%)	120 (15.9%)	761 (47.1%)	3,325 (59.3%)	120 (7.3%)	6,056 (51.1%)
Totals	1,350	880	755	1,616	5,603	1,645	11,849 (100.0%)

NOTE "A".—Source of data: "Awards—Structural Steel" as reported currently each week by "The Iron Age".

NOTE "B-1".—The term "*Pacific Coast Independent Fabricators*" as used herein means Structural Steel fabricators with plants located in California, Oregon or Washington and not known to be owned or controled by any Steel Rolling Mill interest.

NOTE "B-2".—The term "*Intermountain States Independent Fabricators*"as used herein means structural steel fabricators with plants located in the states covered by this exhibit, i. e. Arizona, New Mexico, Nevada, Utah, Idaho and Montana, and not known to be owned or controlled by any steel rolling mill interest.

NOTE "C".—The term "*Midwest States and Southern States Independent Fabricators*" as used herein means structural steel fabricators with plants located in the states of Nebraska, Kansas, Oklahoma, Minneseta, Wisconsin, Iowa, Missouri, Arkansas, Louisiana, Illinois, Michigan, Indiana, Ohio, Kentucky, Tennessee, and Alabama, and not known to be owned or controlled by any steel rolling mill interest.

NOTE "D".—The term "*Atlantic States Independent Fabricators*" as used herein means structural steel fabricators with plants located in the states of New York, Pennsylvania, New Jersey, Delaware, Maryland and Virginia and not known to be owned or controlled by any steel rolling mill interest.

NOTE "E".—The term "*Mill Affiliate Fabricators*" as used herein means structural steel fabricators and sales units understood to be affiliated with major steel producers.

(Compiled by Pacific Coast Steel Fabricators' Association pursuant to direction of and under subpoena from Temporary National Economic Committee).

EXHIBIT No. 1441

Exhibit No. 3

Statement Showing (A) Current Published Basing Point Prices on Steel Bars, Shapes, Plates and Sheets (Taken From "The Iron Age" of August 24, 1939) [Revised to 11/9/39] Together With (B) Comparison of Eastern Basing Point Prices Plus Actual Transportation Cost Versus "On Cars, Dock, Pacific Ports" Base Prices

(A)

Base point	Base per pound (cents)			
	Bars	Shapes	Plates	H. R. Sheet
F. O. B. Pittsburgh, Pa	2.15	2.10	[1] 2.10	2.00
F. O. B. Chicago, Ill	2.15	2.10	[1] 2.10	2.00
F. O. B. Gary, Ind	2.15	2.10	[1] 2.10	2.00
F. O. B. Buffalo, N. Y	2.15	2.10		2.00
F. O. B. Bethlehem, Pa		2.10		
F. O. B. Birmingham, Ala	2.15	2.10	[1] 2.10	2.00
F. O. B. Sparrows Point, Md			[1] 2.10	2.00
F. O. B. Cleveland, Ohio	2.15		[1] 2.10	2.00
F. O. B. Middletown, Ohio				2.00
F. O. B. Youngstown, Ohio			[1] 2.10	2.00
F. O. B. Coatesville, Pa			[1] 2.10	
F. O. B. Granite City, Ill				2.10
F. O. B. Claymont, Del			[1] 2.10	
F. O. B. Duluth, Minn	2.25			
"Philadelphia, delivered"	2.47	2.215	[2.05 to] [1] 2.15	2.17
"New York, delivered"	2.49	2.27	[2.19 to] [1] 2.29	
"Detroit, delivered"	2.25			2.10
"On cars, dock, Gulf Ports"	2.50	2.45	[1] 2.45	
"On cars, dock, Pacific Ports" (See Note)	2.75	2.70	[1] 2.60	2.50

["Subject to concessions, particularly in the East, of $2.00 per ton" (.10 per lb.)]
[1] [25c premium by certain "Independent" Plate Mills for early deliveries].

NOTE.—Crossed-out matter in linetype; new matter enclosed in brackets.
NOTE.—These "Pacific Port" Prices apply on Bars and Shapes rolled at California and Washington mills, no specific F. O. B. Mill Prices being established on Pacific Coast rolled steel.

[All Rates and Prices per 100 pounds]

(B) 1. *Bars* [2] F. O. B. Birmingham, Ala		$2.15
Freight		
Birmingham to Mobile	$.16	
Mobile to Los Angeles Harbor	.45	
Wharfage, Los Angeles Harbor	.01¼	
Carloading, Los Angeles Harbor	.01¾	
Marine Insurance—Approx	.01	
		.65
		$2.80
Versus price "On Cars, Los Angeles Harbor" (Including on Bars rolled at Pacific Coast Mills).		$2.75
2. *Shapes* [2] "Philadelphia Delivered"		$2.21½
Freight		
Philadelphia to Los Angeles Harbor	$.45	
Wharfage, Los Angeles Harbor	.01¼	
Carloading, Los Angeles Harbor	.01¾	
Marine Insurance—Approx	.01	
		.49
		$2.70½
Versus price "On cars, Los Angeles Harbor" (Including on Shapes rolled at Pacific Coast Mills).		$2.70

[2] Bars, Shapes (within rolling limits) and Sheets are produced at Pacific Coast Mills. (Plates are not rolled on the Pacific Coast).

3. *Plates* F. O. B. Sparrows Point, Md ~~[2.10 less 10]~~		~~$2.00~~	[2.10]
Freight			
Sparrows Point to Los Angeles Harbor	$.45		
Wharfage, Los Angeles Harbor	.01¼		
Carloading, Los Angeles Harbor	.01¾		
Marine Insurance—Approx	.01		
		.49	
		~~$2.~~49	[2.59]
Versus price "On cars, Los Angeles Harbor"		$2.60	
4. *Sheets* [2] (Hot Rolled) F. O. B. Sparrows Point, Md		$2.00	
Freight			
Sparrows Point to Los Angeles Harbor	[3] $.45		
Wharfage, Los Angeles Harbor	.01¼		
Carloading, Los Angeles Harbor	.01¾		
Marine Insurance—Approx	.01		
		49	
		$2.49	
Versus price "On cars, Los Angeles Harbor" (Including on Sheets rolled at Pacific Coast Mills).		$2.50	

[3] Freight rate shown applies on Sheets #16 gauge and heavier; Rate on Sheets #17 gauge and lighter (when in packages) is $.03 per 100 pounds higher.

(Compiled by Pacific Coast Steel Fabricators' Association pursuant to direction of and under subpoena from Temporary National Economic Committee).

Exhibit No. 1442

Exhibit No. 4

Statement Showing Typical Examples of Competitive Situations Faced by Pacific Coast Steel Fabricators in Attempting to Secure Tonnage in Territories Immediately Adjacent to Pacific Coast Shops by Reason of (A) Existing Price Structure, and (B) "Fabrication in Transit" Freight Practices Employed by "Intermediate" Fabricating Shops Situated in the Middlewest and South

(See Exhibit No. 2 for 1938–39 Tonnage Record for States of Arizona, New Mexico, Nevada, Utah, Idaho and Montana. Pacific Coast "Independent" shops secured 2.4% of available tonnage in these adjacent states during that period while Middlewestern "independent" fabricators were taking 42% and "mill affiliate" fabricators—presumably shipping from the East and Middlewest—took 51.1)%.

Assume a 500-ton industrial type building consisting primarily of steel trusses to be constructed at Phoenix, Arizona (approximately 395 miles from Los Angeles; approximately 2200 miles from Birmingham, Alabama). Fabricating plants at Los Angeles and Birmingham bid the job. The unfabricated steel for such a structure can be obtained almost entirely from mills at Torrance or Huntington Park (Los Angeles County) California, or from Birmingham, or from Chicago, or from Pittsburgh, Pa.

(1) Material plus Transportation Cost of Los Angeles frabricator, under current base price on Steel Shapes (See Exhibit 3) and published railroad tariffs, is:

Material (irrespective of whether shipped from Eastern rolling mill through Los Angeles Harbor, or locally from Los Angeles vicinity mill):

		(Per 100 lbs.)
F. O. B. cars, "Pacific Port"	$2.70	
Plus Arbitrary "Switching" added (regardless actual shipping point)	.02½	
		$2.72½
Plus Outbound Freight, Fabricated Material, Los Angeles to Phoenix, Arizona		.36
LOS ANGELES FABRICATOR'S MATERIAL PLUS FREIGHT (Shop fabrication costs, mill "extras", and other cost factors are disregarded for the purpose this comparison)		3.08½

(2) Normal Material plus Transportation cost of Birmingham fabricator, under current base price on Steel Shapes (See Exhibit 3) and published railroad tariff rates, is:

Material (F. O. B. Birmingham)	$2.10	
Plus arbitrary "Switching" added	.02½	
		$2.12½
Plus Outbound Freight, Fabricated Material, Birmingham to Phoenix, Arizona		1.10
BIRMINGHAM FABRICATOR'S NORMAL MATERIAL PLUS FREIGHT (Shop fabrication costs, mill "extras" and other cost factors disregarded same as above for purpose of this comparison)		$3.22½

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(3) *Possible—and Probable Actual*—Material plus Transportation cost of Birmingham fabricator, under current base price on Steel Shapes (See Exhibit No. 3) and published railroad tariff freight rates and transit provisions, is:

Material—purchased by Birmingham fabricator at "F. O. B. Birmingham" price but *purchased on condition* that Mill deliver *from Chicago* and *not* locally *out of Birmingham* mill:

(F.O.B. Birmingham)	$2.10	
Plus Arbitrary "Switching" added	.02½	
	$2.12½	
Less Chicago to Birmingham invoice freight allowance	.58	
	$1.54½	
Plus "collect" freight paid carrier (Chicago to Birmingham)	.58	
		$2.12½
Plus Outbound Freight Birmingham to Phoenix, as follows: Through Freight Rate, Chicago (via Birmingham) to Phoenix	$1.10	
Less Inbound Freight, Chicago to Birmingham (deductible upon presentation of evidence of inbound freight payment)	.58	
	.52	
Plus "Fabrication-in-Transit" charge	.03¼	
		.55¼
BIRMINGHAM FABRICATOR IS THUS ABLE TO LAND FABRICATED STEEL AT PHOENIX, ARIZONA AS TO "MATERIAL PLUS TRANSPORTATION" COST		$2.67¾

(Shop fabrication costs, mill "extras" and other cost factors disregarded for purpose of this comparison).

(4) Exactly the same result—as to "Material plus Transportation" delivered cost at Phoenix, Arizona, as shown in "(3)" above, may be accomplished through another device—that of substitution of tonnage at transit point in connection with rail carriers' "Fabrication-in-Transit" provisions, viz:

(a) Birmingham Fabricator purchases the unfabricated steel tonnage from a Birmingham mill for $2.12½

(b) He also (within a year prior) has purchased an equivalent tonnage from a Chicago mill (@$2.12½ delivered, Birmingham) for use on a Birmingham local project—but has registered that tonnage with rail carrier as "transit tonnage" (which is common practice).

(c) In shipping to Phoenix the steel fabricated from Birmingham rollings mentioned in "(a)" above, the fabricator shows reference to Chicago-Birmingham movement mentioned in "(b)" ("substitution" being permitted under present tariffs of rail carriers) and instead of paying full tariff rate (Birmingham to Phoenix @$1.10) pays:

Chicago to Phoenix	$1.10	
Less Chicago to Birmingham credit (actually paid to carrier in connection with an *entirely unrelated* tonnage)	.58	
	$.52	
Plus "F. I. T." charge	.03¼	
		$.55¼
RESULT—Same as "(3)" above		$2.67¾

Under both "(3)" and "(4)" which are hypothetical cases, *but in line with common pratices*, business is diverted from normal channels by fabricators who are situated at any "intermediate" or other advantageous locations where they may purchase from various mill sources of supply at an identical delivered price, and switch tonnage and "cross-ship" to best advantage. Compare "material plus transportation" of "(2)" above with "(3)" and "(4)" above. Note competitive position at Phoenix of Los Angeles fabricator per "(1)" with normal or published "material plus freight" cost of Birmingham fabricator per "(2)". Note then that by devices illustrated in "(3)" and "(4)", Los Angeles fabricator is forced out of the competitive picture. Then refer to Exhibit 2 proving how effectively the California fabricator is, under present conditions, excluded from the Arizona field, in competition with eastern fabricators. (Pacific Coast "Independent" fabricators secured approximately 2.4% of the available tonnage in the states of Arizona, New Mexico, Nevada, Utah, Idaho and Montana in the 1½-year period of January 1, 1938–June 30, 1939).

The above illustration of the Birmingham vs. Los Angeles situation at Phoenix is only typical. Substantially the same situation exists as to competition between Pacific Coast fabricators and Midwestern or Southern states fabricators at such points as:

Las Vegas—Boulder City, Nevada
Reno, Nevada
Boise, Idaho
Butte, Montana
Spokane and Grand Coulee, Wash.
etc.

For further data on the "cross-shipping" evil and its effects, reference is made to the Federal Trade Commission report of March 7, 1939—"Monopoly and Competition in Steel".

(Compiled by Pacific Coast Steel Fabricators' Association pursuant to direction of and under subpoen from Temporary National Economic Committee).

Exhibit No. 1443

(Exhibit No. 5)

Statement Showing Typical Examples of Effect of Application of Government Land Grant Rates in Evaluating Bids to the U. S. Government on Fabricated Structural and Plate Steel for Projects in Far Western States

	Typical Origin Point	Comparative Material Plus Transportation Costs (In Cents Per 100 Pounds)					
		Movement Under Published Tariff Rate			Movement Under "Land Grant" Rates[1]		
		Est'd. Mat'l. Cost	Freight	Total	Est'd. Mat'l. Cost	Appr. Freight	Total
Example "A"—Structural Steel delivered Shasta Dam (Calif.).	Oakland, Calif	272½	33	305½	272½	21½	294
	Gary, Ind	212½	110	322½	212½	64½	277
	Birmingham, Ala	212½	110	322½	212½	71½	284
Example "B"—Structural Steel delivered Friant (Calif.).	Los Angeles, Calif	272½	23	295½	272½	14	286½
	San Francisco, Calif	272½	17½	290	272½	17½	280½
	Chicago, Ill	212½	115½	328	212½	67	279½
	Birmingham, Ala	212½	115½	328	212½	63	275½
	Pittsburgh, Pa	212½	132	344½	212½	84	296½
Example "C"—Structural Steel delivered Crownover (Wash.).	Portland, Ore	272½	33	305½	272½	19	291½
	Seattle, Wash	272½	20	292½	272½	11½	284
	Chicago, Ill	212½	110	322½	212½	59	271½
	Gary, Ind	212½	110	322½	212½	63½	276
	Bethlehem, Pa	212½	143	355½	212½	97	309½
	Birmingham, Ala	212½	119	331½	212½	74	286½

[1] Land Grant Rates shown are necessarily approximate, divisions as between carriers, alternate routes, and other factors not available to this organization entering into the calculation of exact land grant rates. The rates shown however are believed to be substantially correct and sufficiently accurate for the purpose of comparisons for which they are intended.

COMMENT

It will be noted that Pacific Coast fabricators situated close to Government project sites shown above (Shasta Dam and Friant, Calif., and Crownover, Wash.) have a slight advantage on "material plus freight" costs—even under existing steel base prices—over Middlewestern, Eastern and Southern shops *provided* lawfully published tariff freight charges apply. However, when *"Land Grant" rates* are applied—as they are by the various branches of the U. S. Government today in the evaluation of bids and settlement of charges the picture changes and the Pacific Coast fabricator is forced to forego business right at his own backdoor—or make heavy absorptions in order to retain the tonnage (which tonnage represents monies allocated by the Federal Government to Western States presumably for the benefit of Western labor and Western industry). Regular railroad tariff freight rates are on file with the Interstate Commerce Commission and in most instances have been presented by, or approved by the I. C. C., and are presumed to be properly related as between competing shipping points, distance and other transportation rate factors considered.

Deductions from these established commercial rates on basis of 50% for the land grant mileage over the route having the greatest land grant mileage, obviously result in the substitution of drastically reduced, wholly unrelated and discriminatory rates for use on government jobs for the non-discriminatory, reasonable and properly related rates on file with the Interstate Commerce Commission.

In addition, the application of "Land Grant" rates penalizes those railroads which were *not* built under land grants.

Congress in appropriating public monies for public works endeavors to spread its allocations over the country as a whole for the benefit of the people as a whole, and to provide employment during construction to the workers in industry in all parts of the country. "Land Grant" rates, as long as they remain in effect defeat the intent of Congress in this respect in this way:—the steel fabricators or other vendors in the Midwest for example are enabled, by application of unnatural, improperly related, less than reasonable land grant rates, to participate (1) close to 100% in the fabricated steel and other manufactured materials

for public projects in their *own* territory—*plus* (2) the lion's share of the same materials going into *Western States'* projects. Similar unnatural diversion of business, and uneconomic cross-shipping between territories, results from the application of land grant deductions in other sections of the country. The Pacific Coast is more adversely affected than any other general territory however, because it is "at the end of the line" and not in a position to indulge in relatiatory tactics.

To fully appreciate the discriminations that result from "Land Grant" rates and the extent to which normal competitive relationships are disrupted on transportation of government materials, it is only necessary to refer to "Map of Land-Grant and Bond-Aided Railroads of the United States" as prepared by the Quartermaster General of the War Department. The Middle-west is completely interlaced with land-grant roads. The East has none. One road (the Northern Pacific) is completely "Land Grant" from Minneapolis to Seattle and Portland, resulting in the cutting of normal transportation charges 50% on movements under "government bills of lading" from a number of points in the Middlewest to points served by the Northern Pacific in Montana, Idaho, Washington, and Oregon, with cuts of close to 50% on shipments originating at or destined to points on other railroads. Between Atchison, Kansas and Barstow, Calif., the Santa Fe Railroad is about 75% "land-grant" creating almost as acute a conditoin between the Middlewest and California as applies between the Middlewest and Pacific Northwest.

Legislation is before Congress (S. 2009, as amended, Sect. 321; passed subject to conference between the Senate and House of Representatives) to accomplish repeal of the "Land Grant" provisions of the Interstate Commerce Act. This constructive legislation should be enacted with as little further delay as possible.

(Compiled by Pacific Coast Steel Fabricators' Association pursuant to direction of and under subpoena from Temporary National Economic Committee.)

"Exhibit No. 1444", introduced on p. 10923, is on file with the Committee.

"Exhibit No. 1445", introduced on p. 10948, is on file with the Committee.

Exhibit No. 1446

Wheeling Steel Corporation

General Offices: Wheeling, West Virginia

Cable Address
Wheelsteel
New York

Western Union
Bentleys ABC
Private
Acme

Export Department: Equitable Building, 120 Broadway, N. Y.

New York, N. Y., *April 12, 1938.*

The Secretary, Steel Export Association of America,
75 West Street, New York, N. Y.

Dear Sir: Please refer to the meeting of the Board of Managers on April 5 summarizing the present status of the S. E. A.

The next step is to formulate the recommendations of the Board as to what should be done about it. To crystallize our discussion, I am taking the liberty of sending to you a draft of the proposed letter setting forth the recommendations of the Board that should be submitted to the presidents of the member companies, in compliance with the request from our company.

There are doubtless other points that should be included in such a letter, and of course, there will be differing views on many of the issues discussed. I believe that wherever a real difference of opinion exists, it would be desirable to include both the majority and the dissenting opinions in our report to the presidents.

I await your notice of the second meeting.

Yours very truly,

Wheeling Steel Corporation,
(In ink:) H. W. Schroeder,
Manager, Export Department

HWS:JMM.

"IT'S WHEELING STEEL"

Exhibit No. 1447

REPORT FROM THE BOARD OF MANAGERS OF THE STEEL EXPORT ASSOCIATION TO THE PRESIDENTS OF THE MEMBER COMPANIES

Dear Sir: At the request of one of our members, we are addressing each of you, first, to give an authentic description of the present status of the Steel Export Association; second, to report the definite steps which we are agreed should be taken to complete the reorganization and enlargement of the Association. We have been working for several months to accomplish this—much has been done, but there still remain many loose ends to be tied up before the Association can function properly. We believe that this matter is of importance to all member companies and solicit your aid in effecting a settlement of these outstanding points.

First, please study carefully the attached report of things as they are. When the Association was formed in 1928, quota participations were based upon performance during open competition of the three years preceding, and the principle of quotas in proportion to capacity was denied in its entirety. Since then, because of the operation of the Association, and its various international agreements, and more recently because of an international shortage of steel, prices for export rose from the point at which only a few companies were interested, to levels at which all were desirous of participating, particularly in view of present low operating rates and dearth of domestic business.

Without the Association and its agreements abroad, this would have the old, familiar and inevitable result of driving export prices down again to unprofitable levels. The companies who are permanently engaged in the export trade and who have enjoyed the larger shares of this business, are the ones most interested in maintaining prices, because they stand to lose most by their decline. On the other hand, most of the newcomers, the "have nots", are interested in raiding the export market until the price becomes unattractive and then withdrawing. Some of these newcomers have resolved to fight their way into the company of the "haves", and remain in the export business permanently.

The result has been repeated demands by the "have nots" for increases in quota, at the expense of the "haves". Naturally the "haves" have resisted this encroachment, in some cases leaving no alternative but an open violation of the Association rules when the contenders persist in obtaining satisfaction of their demands.

At this point in the development of general bad feeling, it became necessary to consider the forming of a Heavy Steel Group in the S. E. A., followed by a Sheet Group. Recognizing the primary importance of agreement on quotas, all of the early discussions centered on this point, and there remain only a few percent to be reconciled before attaining 100% quotas in each product.

These cases are set forth in detail in the statement attached, and will not be considered separately here, beyond the warning that close as we are to 100%, no product group can function with a true regard for the rights of all its members until those rights are clearly agreed upon. Until quotas come out even at 100%, there has been no agreement, and groups which now are nearly completed are in serious danger of falling apart again unless an early settlement can be reached. Also, and more imminent, is the danger that the British and Continental parties will renounce the present tentative agreements unless they are made more satisfactorily effective. Such renunciation would inevitably be followed by an influx of low priced foreign steel in domestic markets.

Obtaining quota agreement in the beginning is absolutely necessary to the working of the international cartel argreements, yet our experience of the last few months reminds us of the old adage that while one man may bring a horse to water, ten men cannot make him drink. Persuasion remains the only course; meanwhile, a declining price level is the only method available to influence the quota that each member will desire. The problem is to arrange for quotas, yet at the same time maintain a price that would be satisfactory to all.

We recommend the abandonment of the principle of "no cutting across", which has met with strong opposition from numerous mills, and instead we propose the establishment of two classes of membership, active and associate, both classes contributing to the expenses of the Association at the same pro rata cost per ton, on tonnage shipped. Active members would have a definite quota, and when in deficit would be entitled to price protection from members in excess. Associate

members, consisting of companies not regularly engaged in export business, would not have any fixed quota, but would be given the same price to quote as active deficit members, in return for their engagement to submit all inquiries to the Association, maintain the prices given to them to quote, report all sales and shipments, pay their pro rata share of the cost of the Association per ton shipped, be responsible for their tonnage share of any international penalty for excess shipment by the American party, and enjoy their share of any bonus due to an American deficit. Such associate members would be expected to become active members with fixed quota, if at any time their attitude should change with regard to export business, or if their participation should exceed 3% equivalent quota.

While it is fundamental that cartels must be predicated upon a freezing of previously attained position, nevertheless some flexibility is necessary if a desirably long term of agreement is to be made. We recommend rescinding the previous rules against sale of American quotas, and further provide that any member in deficit must agree to sell for cash up to 50% of his deficit position if desired by another member. With this provision, members able to sell up to their quotas may purchase the opportunity for further sales within the rules, and not be forced to operate illegally by the pressure of economic circumstance, as at present. The price to be paid for such quotas shall be fixed from time to time by each products group in proper relation to the excess and deficit penalty then applying.

With provision for associate memberships, and with some flexibility in the quota system amongst active members, it is believed that quota agreement should be accomplished readily. This should be for a national agreement having the same term as the corresponding international agreement, and all active or associate memberships held by each company should be clearly defined by being set forth in a separate contract between the S. E. A. and each such company. The present articles of association, and the hundreds of resolutions passed during the last ten years, are being codified, and will be attached to each membership contract as a set of by-laws. In this way, all members will know just where they stand, and what their privileges and obligations are. At present no one knows them all.

When the Association has assumed definite shape, upon completion of the work outlined above, it will be necessary for it to undertake further negotiations with the British and Continental parties of the Heavy Steel Group. Preliminary figures now available to us show that the American Party must ask to be excused from applying its heavy over shipments by members against its international quota up to June 30, 1938, or endeavor to obtain more favorable quotas for the American Party on products where previous percentages are entirely inadequate under present conditions.

Beyond this, the American Party must negotiate for freedom from responsibility to the Heavy Steel Group for shipments by American outsiders, during whatever period of time may be required to negotiate with these outsiders and to obtain their participation in the agreement, either as active or as associate members. With present outsider activity, we cannot be responsible for them. When all outsiders have joined up, there will be no problem. In the meantime, it is suggested that much the same clause be employed as at present under the Tin Plate agreement, mentioned in the attached report.

Furthermore, with a view to diminishing the opportunities offered to outsiders, it is recommended that responsible brokers, jobbers, or export merchants be licensed by commission agreements with the Association to deal exclusively with its members. License would be offered upon nomination by any member. At present, the brokers seek connection with outsiders, and contrive to defeat the purposes of the Association. It is hoped that the licensing plan will ensure the cooperation of the worthwhile merchants.

In the past, each company in this association has been willing to defer to the common good when convinced that a fair compromise was reached. This letter and accompanying report is addressed to you in that spirit, and we solicit your cooperation toward making this association completely effective.

EXHIBIT No. 1448

BETHLEHEM STEEL EXPORT CORPORATION

EXPORTERS OF THE PRODUCTS OF BETHLEHEM STEEL COMPANY

25 Broadway, New York, U. S. A.

Cable address 'Bethlehem" New York

S. M. BASH, *Vice President*

Acme, Western Union Bentley and other standard codes

NOVEMBER 14TH, 1938.

Mr. JOHN OUTWATER,
The Steel Export Association of America,
75 West Street, New York, N. Y.

DEAR SIR: After consultation with U. S. Steel Products Company, we would like you to send the following letter over your signature to Mr. Todd in tomorrow's mail:

"*Ship Steel and Ordinary Plates and Shapes for Scandinavia and Holland.*

"You will recall the conversation after dinner on the night you sailed which resolved itself into the fact that we are in the Cartel until 1940 with definite quotas and that it is up to us to live within these quotas. We are satisfied to do this but, frankly, the situation as regards the products for the territories mentioned in the caption of this letter has us baffled. Today, one of our larger members has received word from their London office that a large British merchant firm informs them they have been attempting to secure firm offers for ship plates for Holland on the basis of $1.96 c. i. f. but without success, they being informed that lower prices are being named by other merchants for plates from Worth and Central. As you know we are presently asked to maintain £11.0.0, which at $4.73 exchange is about $2.32 per 100#, c. i. f., and the Continentals claim they have the situation under control by taking not lower than £9.15.0, which at the same exchange rate equals $2.06, and they claim to have taken considerable tonnage at higher prices.

"Frankly, several of our members have received reports from many sources to the effect that the Continental prices at which business is reported to have been closed are subject to rebates of varying amounts. We have no quarrel with the Continentals or the British in quoting lower than £9.15.0 by means of the rebate system (as this is what we have been asking them to do for some time to eliminate the American outsider) if they have some real reason for not wanting a price lower than £9.15.0 to become *officially* known but, as partners, we consider that we are entitled to know what they are *actually* doing, because if what they are actually doing is sufficiently low actually to eliminate the American outsider, then we can properly judge the reports our members are constantly receiving as to prices being quoted by the American outsiders and whether or not they are securing any real volume of business. We would be inclined to stay off the ship steel business for the Scandinavian and Holland markets (except possibly at such times as we are in deficit—and then only to the extent of making up our deficit) so long as we know that we are not being denied the opportunity of taking business which is being lost by the Cartel to the Philadelphia district mills. Furthermore, as you well know, the sooner these mills are eliminated from taking business the better our chances will be of bringing them under control in our own group.

"There is also the thought that after the trial period some of our members are not going to be content to remain in the American party if it ultimately develops that mills outside the party can secure more tonnage than group members.

"This is one of our most aggravating and pressing problems and we are wondering if you cannot discuss it frankly with Sir Andrew Duncan toward the end of clarifying the situation once and for all."

Yours very truly,

BETHLEHEM STEEL EXPORT CORPORATION,
(In ink:) C. E. MASTERS,
Assistant to Vice President.

"EXHIBIT No. 1449", introduced on p. 10983, is on file with the Committee.

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